JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

1998 Regular Session

Volume I

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 1998,
and in the Two Hundred and Sixth
Year of the Commonwealth

Begun on Tuesday, the Sixth Day of January, 1998, and Adjourned
Sine Die on Wednesday, April 15, 1998

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FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 1998.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Ms. Linda Attkisson and Ms. Gene Wallace prepared the *House Journal* for the 1998 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

DON CETRULO
Director

The Capitol
Frankfort, Kentucky
1999

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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION 1998

TUESDAY, JANUARY 6, 1998

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Old Capitol in the City of Frankfort, and begun on January 6, 1998, the two hundredth and sixth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Jody Richards assumed the Chair and called the House to Order.

Prayer by Reverend David Hilton, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Wayne Cusick, accompanied by Hollis Rosenstein, performed the state song "My Old Kentucky Home".

The Speaker announced that the membership was the same as in the 1997 Second Extraordinary Session with the exception of a vacancy existing in the 28th District.

The roll was called. All members present except Representative Heleringer.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Barrows moved the nomination of the following Constitutional officers to serve until December 31, 1998:

Chief Clerk, Evelyn Marston; Assistant Clerk, Julie Wheat; Enrolling Clerk, Margaret Watts;

Sergeant at Arms, Emmett A. Slattery; Chief Doorkeeper, William E. Davis; Cloakroom Keeper, Aubrey Morris;

Janitor, George Fritz; Janitor, Frank Smith; Page, Jeremiah Davis; Page, Brian Fitzgerald;

Page, Jacob Coley; Page, Valerie Scheil

Representative Barrows moved that the nominations cease and that the Constitutional Officers be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by the Honorable Robert F. Stephens, Chief Justice, Supreme Court.

The Speaker addressed the General Assembly as follows: The first Kentucky General Assembly began the long struggles of this century here under this dome in this historic capitol building and today as the old millennium draws to a close, it is only proper and fitting that we return here to pay tribute to the past and to lay plans for the future. Just as our forefathers who occupied these seats ten decades ago, we stand here today poised on the dawn of a new era, preparing to cross a new threshold of opportunity. In a sense, many of the tasks we face are very similar. In other ways they are vastly different. The past century has witnessed unparalleled progress in the Commonwealth. It has seen the transformation of this state into the global economic and technological competitor that it is today. It has witnessed the development of world class system of public education and the evolution of the General Assembly into a potent and prolific architect of public policy. Across the board, in all categories, Kentucky and Kentuckians are prospering as never before. Government is functioning more efficiently and is more responsive than at any time in the past. The vision of the spirits that haunt this hall has come to fruition, thanks to you and those who came before you, men and women empowered by the courage of their convictions, people willing to sacrifice of their time and talents to assume the yoke of public service and public responsibility, men and women who dared to make a difference. Over the next few minutes you will hear a great deal about the expansive scope of change in Kentucky. Our three speakers will help us to understand just where we've been in this state and give us a better understanding of where we hope we are going. The challenges of the next century are many and varied. The road to the future always is unclear. Let them say of us a hundred years from now that we approached that path with the same pioneer spirit, with the same undaunted determination as the noble men and women of the distant past and not so distant past. Let them say that through our values and prudence and compromise, we too achieved. We too succeeded in understanding and overcoming the trials of our times. We too prevailed on behalf of the future generation. I look forward to working with each of you over the next three months and, again, I thank and commend you for your dedication.

Our first speaker today is a very well known and very revered Kentuckian. Dr. Thomas Clark's strong devotion to preserving and chronicling Kentucky's rich heritage and traditions has earned him a very prominent place of his own in that history to which he has dedicated his life's work. The descendent of southern pioneer stock, a distinguished and revered scholar, statesman and author, Dr. Clark has done more to foster respect and understanding of the Commonwealth's history than perhaps any other single individual. The credits to his name are endless. The credentials and dedication he brings to his position as state historian are truly without peer. Dr. Clark joins us today to talk about life in Kentucky around the time the General Assembly convened for the first time this century. Ladies and gentlemen, please join me in welcoming Dr. Thomas Clark, the State Historian.

Mr. Speaker, members of the House of Representatives, ladies and gentlemen. I'm very happy to be here at this moment, this time at the turn of the century. Many times I have come into this building. I think I started coming into this building before most of you were born. I've tried to imagine the scene in this room, the debates that took place, the kind of legislation that was passed, the progress that was made and the mistakes that were made. The year 1898 was a cardinal year. I was very much interested when I was invited to make remarks on what happened in this year and around this year.

In 1898, Kentucky was in a distinctly transitional period in its history. The transition might have been made entirely differently, the image of this state might have been an entirely more glowing one had it not had three bills introduced in this House, in this room. Two of them became law. The third one was indicative of the condition of the times. I could stand here for all of my time and more, discussing one of those laws and the impact it had upon the course of history in this Commonwealth. The election law, or the Goebel election law, to regulate elections which was an iron-willed, premeditated casting of a political die that never should have been cast in Kentucky. That will go down as one of the cardinal moments, a mistake-making in the course of the history of this Commonwealth. The second one was to have less impact, the McCord Railroad Bill, which was in fact a reworking of a previous bit of legislation. As the turn of history, as the turn of the wheel of fortune took place, these things were to have an enormous impact. A third bill struck at one of the problems which had beset this Commonwealth, and that was the management of the sale of text books and the political influence exerted up on the passage of legislation in this state by the book companies, aimed principally at the American Book Company in Cincinnati. Kentucky was paying from 15 to 30 percent more for its text books than any other state in the union at that time.

I have just gone through the administrative journals, the executive journals, through a great deal of the paper that was generated at the time. Some amazing things turned up. I not only want to take myself to task, but I want to take my fellow historians to task. I am strongly of the opinion that we haven't done much more than scratch the surface of the really fundamental basics of history events that had such cardinal influence, such cardinal bearing upon this state.

I have mentioned the passage of the legislation, in this house, in this room, reverberating still loudly in the annals of history. I want to turn back to some of the problems that the state faced. Somewhere, somehow, in one governor's report after another, there was emphasis on the fact that this state had to solve its educational problem. It had to institute a system of education adequate to the promises and the hopes and the aspirations of the future. Education was a major problem; education is a major problem now; education is an open ended problem in an organized society.

The state was in upheaval in another area that was of vast importance to the region. The toll gate war had occurred. There had come an end of an era when the General Assembly and the people of the Commonwealth had undertaken to escape the burden of taxation for the establishment of a system of highways, the breaking of the barriers of isolation that permitted people free access to markets, to intercourse of all sorts across this state.

A third problem that resounded and it resounds in the publication of every newspaper that has come out in the last century was a matter of violence. You cannot imagine the kind of problem that prevailed. There was this nameless, almost unidentified group that set seeds to this state and when this General Assembly, when this House of Representatives met in this chamber in 1898, there was militia guards around the place insuring the safety of the legislative body of this Commonwealth. Violence was rampant and in Governor Bradley's journal, there was those orders to the Adjutant General of this state to come here to put down violence surrounding this building and also to put down violence all across the state. There was that matter of carrying concealed weapons over and over and over in the Journals. There was that matter of the Governor remitting those convictions, a $25 fine and 10 days in jail, which was a standard sentence. You would be surprised how many of the citizens were caught up in that net.

There were many other issues that had to be resolved. One of them was the matter of the use of the resources of this state. Believe it or not there appeared an issue that keeps showing it's head in a timid way in the matter of the management, the control of the logging industry, the control of the forest industry in this state.

Finally, without prolonging this discussion, there was a three way conflict. Kentucky was trying to shakedown after adopting the new constitution. It was trying to set a new course, a new legislative, a new constitutional, a new statutory course into the future. But you came, at the end of the old brigadier period, when John Young Brown, Jr. left the Governor's office a sad man, a man who was threatened with all kinds of domestic family problems as well as political ones. There were three strong contending political groups. There were the two democratic parties split over the national issue, of the old populist question, over the coinage question. There was a very interesting veto in the Bradley Journal concerning the matter of gold versus silver that was a burning issue in this Commonwealth. And then there was the election of a republican governor in which you had open conflict. Page after page after page in the executive journal is devoted to vetoing the legislation passed by the Kentucky General Assembly. Kentucky was at loggerheads with itself. You almost read nowhere a promise, a plan, a moment of looking forward to the transition into a new century, because there was so many immediate problems which had to be solved, so many immediate problems which had to be dealt with.

I have looked back, I've lived through most of this century so far. I've looked back over this long and winding road like the great yellow road in the Wizard of Oz. It has been a road of many turns, many crooks, and many straight-aways, of many advances, meeting many challenges. As we stand here in 1998 looking back over a hundred years in a chamber where so much was done, legislation was adopted that had such a deep impress upon the future of the Commonwealth. We stand on a pinnacle of a far brighter future. We are going into a transitional period which can be a glorious one, glorious one, indeed, compared by any standards, but certainly compared to what transpired in this Commonwealth in 1898. I hope I live long enough to go into the 21st century to see us make this transition, see us use the wisdom and the foresight. But let us turn back and examine the annals of history of that cardinal decade, 1890 to 1898. Those were our formative years, formative years that still have a very definite bearing. The constitution that you serve under was being drafted, being put in place, being adjusted in that decade. All sorts of issues troubled this state. Some of them have come down, some of them are as pertinent today as they were a hundred years ago.

I hope you godspeed in the opening; there is always a tone of excitement in the opening of a session of a new General Assembly. But it is quite fitting that you come to this room. I hope you come to this room in a spirit of repentance. I hope you come to this room with a new perspective that you meet a challenge far brighter going into a new century than your confreres went into this century. Thank you.

The Speaker introduced Dr. Lowell Harrison who addressed the Assembly as follows.

Mr. Speaker, members of the House of Representatives who are meeting in the last regular session of the General Assembly in the 1900s, honored guests:

In his second annual message to Congress in December 1862 President Abraham Lincoln said, "Fellow Citizens, we cannot escape history." It would be difficult to escape history in this chamber, because for the better par of a century these walls witnessed some of the most important events in the history of the Commonwealth.

After two permanent capitols burned, a brilliant young architect, Gideon Shryock, designed the Greek Revival structure in which we are meeting. From then until today, his improbable stairs have attracted attention and some disbelief. Construction cost $85,000, a sum so large that some apprehensive Kentuckians feared it would drive the state into bankruptcy. A local newspaper on December 8, 1819 called it "the most magnificent edifice which has been erected in the western world." This chamber was called "a splendid apartment."

This building house the legislature until January, 1910 when the New Capitol was occupied. This Old Capitol was used for various purposes until 1920 when it was turned over to the Kentucky Historical Society. Carefully restored in the 1970s, what you see now is much what you would have seen had you been here in the 1850s.

During the years that this building was the home of the General Assembly, this hall witnessed some stirring events and provided a forum for many notable legislators. Cassius Marcellus Clay, a slave holding emancipationist, served a term before his antislavery views made him an outcast. One of Kentucky's most colorful figures, Clay once announced that he would no longer accept challenges to duels; they were taking up too much of his time. Instead, he would go armed and would respond immediately to challenges. The knife was his favorite weapon, and he even wrote a pamphlet on knife fighting. (The secret was to strike upwards and then twist the knife.) John J. Crittenden, who tried to find a compromise that would avert the Civil War, was a distinguished member of this House for several terms, including 1829 when this hall was first occupied by the House. Robert Perkins Letcher may have been the best fiddler ever to serve in this House of Representatives. "Black Bob" played his fiddle during political campaigns to draw off an opponent's audience. The list of notable members of the House could be extended, on and on.

Of the 26 governors who serviced within this period, 17 have been members of the House. Of the remaining nine, three had served in the state Senate and one in the U. S. House of Representatives. Both governors of the Confederate government of Kentucky had been members of this House before the Civil War.

This chamber hosted the constitutional conventions of 1849 and 1890. Kentuckians of the 19th century were less fearful of conventions than Kentuckians of the 20th century.

In the last century this hall was often used for party conventions. That practice became a Civil War casualty on February 17, 1863 when the House refused to let the State Rights Party use this room. When they tried to meet in the Metropolitan Hall, Colonel E. L. Gilbert surrounded that building with his Ohio troops and informed the delegates that he would not allow disloyal sentiments to be expressed or disloyal candidates to run for office.

One of the most dramatic moments in the history of this hall came in October, 1862. Confederate Generals Braxton Bragg and Kirby Smith had invaded Kentucky at different points. The state government fled to Louisville before Kirby Smith captured Frankfort; it was poised to cross the Ohio if necessary. Frankfort had the distinction of being the only state capital captured by the Confederacy during the war. The Confederates planned to install Governor Richard Hawes, a former member of the House, in the governorship, then use the Confederate conscription law to get Kentuckians in the Confederate army to use the 20,000 rifles Bragg had brought with him in his wagon train. On a damp October 4, 1862 pro-confederates packed this hall and the rest of the building with many standing outside. General Bragg promised to hold Kentucky for the confederacy, and Governor Hawes delivered a lengthy address in which he explained how and why the Confederate Government of Kentucky had been formed. He promised to hold a convention as soon as possible to reshape this government. But federal troops were within artillery range of the town, and plans for an elaborate evening banquet had to be abandoned. That afternoon Hawes and his colleagues departed Frankfort in dignified haste. After the battle of Perryville, they resumed their exiled status.

This hall was also involved in the aftermath of the William Goebel assassination. Goebel, one of Kentucky's most controversial political figures, was shot in front of this building on January 30, 1900. He died on February 3, and Kentucky came dangerously close to civil war. Republican Governor W William Taylor adjourned the General Assembly and called for it to meet a week later in London. Troops allowed members of the General Assembly to enter their respective chambers only to retrieve personal belongings. Armed troops prevented the democratic members from meeting in the Opera House or courthouse, but they slipped into the Capitol Hotel at night and declared Goebel elected governor. Armed partisans poured into the city; only a spark was needed to touch off a frightful conflict. Somehow, that spark was avoided. The Democratic majority met in Louisville; the Republican minority met in London. When the General Assembly reconvened in Frankfort on February 19, separate party meetings were conducted simultaneously in each chamber. Two journals were kept in this House. An agreement was finally reached to let the courts deal wilt the troubled issues.

Yes, this hall has witnessed some stirring moments.

You members of the House of Representatives are politicians or you would not be here. That term often carries a derogatory implication. In "King Lear" Shakespeare refers to a "scurvy politician," and even harsher terms are common. This perception perhaps explains why one of my students once defined "A plurality election as an election in which one candidate gets a majority of the votes and his opponent gets more votes than he did." Then he added thoughtfully: "This is most likely to happen in Kentucky."

The perception is unfortunate, for political parties and politicians have important roles in our democratic system of representative government. They provided voters with information and a choice between parties and candidates, they provide a means of finding compromises. They do not always work perfectly. I believe it was Winston Churchill who once described the difference between a monarchy and a democracy. A monarchy, he said, was like a great merchant ship that sails serenely over the seas until at last it strikes a reef and goes down. A democracy is like a raft; it never sinks, but, dammit, your feet are always wet.

I suspect that your average constituent praises and respects you but regrets that you are associated with that body of rascals in Frankfort. That perception of this House and the Senate is something that you need to try to change.

You and the legislators who will follow you into the next century and the next millennium, will be confronted by a host of problems that demand solutions. Health care, health insurance, the state's economy, tobacco and its growers, the environment, roads, crime and prisons, pig farms, etc. The list grows and grows as new problems appear.

But I think that education will be your major problem most of the time. We are beginning to realize that education may be the bet answer, perhaps the only answer, to many of our problems. We must see education as a continuous process, one that almost literally extends from womb to tomb. It is incredibly complex. How can we measure progress to see if progress has been made? Let me add a word of caution; don't fall into the trap of thinking that technology is education. Technology is a very useful tool, but by itself it does not produce an educated person.

You will not be able to deal with a problem such as education and then put it aside as solved. Suppose that Kentucky succeeds in bringing university salaries up to the average of the benchmark institutions against which Kentucky is measured. But by then the benchmark institutions will have made additional progress. As legislators, you will find yourself in the position of a person who is walking up a down escalator. Stop walking up for just a moment and you start losing ground. Many of your problems are perpetual.

But you will also sometimes be presented with opportunities. Much of the future of Kentucky will be determined by your response to such moments. Too much of our history tells of opportunities ignored or dealt with only partially. For example, the General Assemblies of 1906 and 1908 made great improvements in education. But then we relaxed as if the work was all done. An in this decade we are again trying to copy with our most important problem. A window of opportunity appears to be opening before us now; it is your responsibility to take advantage of it.

You are members of a party, you are politicians, you will play politics. But I trust that if the time comes when this Commonwealth is confronted by a major crisis, you will remember the state motto and act accordingly. In the meantime, try to keep your feet as dry as possible.

Representative Stumbo introduced several eastern Kentucky legislators and made the following comments:

Mr. Speaker, ladies and gentlemen, it gives me great privilege to address this body today in this very historic moment of our assembly. As I told you to begin with, a vision is not really the physical ability to see, it's the mental ability to imagine and dream. As witnessed by a great Kentuckian and a dear friend of mine, Ed Pritchard, who lost his physical ability to see but never lost his vision of a better and brighter future for Kentucky's children. Mark Twain once said that he wants to be in Kentucky at the end of time because we do everything here 20 years late. Sometimes that is not untrue.

But before we can see into the future, and truly appreciate our vision of the next century, let's examine some of the failures of our past. Unfortunately in this century we've squandered the wealth of our resources, by and large. We failed to adequately protect our environment. We don't have water free flowing and clear and able to drink for every Kentuckian. Daniel Boone's own beloved Kentucky River is almost a sewage pot because of lack of adequate disposal systems in many of our counties. We allowed for ninety years an unfair and unconstitutional education system to educate our young. We failed to use all of our resources wisely and to the betterment of all of our citizens, such as our windfall and the lottery. Many of you may not want to hear this report card and in all fairness, we have made some progress. It kind of reminds me though of my nephew Wesley who went to Sunday School the other day and came home. I asked him what the teacher had taught him and he said she taught him about the time that Moses led the Hebrew nation out of Egypt and I said well what did she teach you and he said well, Uncle Greg, he said, you know, Moses went to the Pharaoh and asked for free travel out of Egypt and the Pharaoh granted that, and Moses led the Hebrew people into the desert. As they were about half way through the desert they noticed a large dust cloud on the horizon and they knew what that meant, that the Pharaoh had broken his word and had unleashed the chariots. The chariots were coming forward and were going to attack them and they were unarmed, unable to defend themselves. So he said they rushed forward and ran into the Red Sea. I said, "What happened then, Wesley." He said, "Well, Moses got on the walkie talkie and he called up the CB's and they came and build a bridge across the Red Sea and he led all the Hebrew nation across the Red Sea safely." I said, "What happened then." He said, "Well, when the Pharaoh's chariots got there they started across that bridge and Moses got back on the radio, called up the air command and they did an air strike, blew up the bridge, killed all of the Pharaoh's army and the Hebrews proceeded safely." I said, "Wesley, did your Sunday School teacher tell you that story that way." He said, "No Uncle Greg, but if I told you what she told me you wouldn't believe it."

But even though we have made mistakes in this century, we who are the captains and stewards of this ship of state of the commonwealth have a chance to correct her, to right some of the wrong. We have what most people don't get, a second chance. We have in this session, the ability to start, to correct some of the problems and to continue to alleviate some of the problems that we have. Let's look to see what we could do.

If we look at the example of the western states, we see that in the early 1800's and through the middle of that century they were mined out. They lost a great deal of their mineral resources. Their towns became ghost towns. Their population became starved because they had squandered the natural wealth of their mineral resources and not planned for the future. I challenge this General Assembly to begin looking at what is going to happen in the next century when Kentucky's natural resources are gone, when our coal and our many large natural gas supplies are diminished. I challenge us to look to our western states who have established now reserve trust funds where part of the money from their severance taxes go into that trust fund so that when those resources are depleted, that their budgets will not suffer and their people will not suffer. I think it's time that we look at that concept in realistic terms.

Our goal should be to initiate, fund and carry through with programs that allow our counties to lay water lines and provide clear, safe drinking water to every Kentuckian, and we ought to set a time table; we ought to say that should be done within ten years, Mr. Speaker, within ten years. Every Kentuckian ought to be able to have fresh clean drinking water.

We ought to join people like Congressman Hal Rogers and others in his Pride Campaign to clean up Kentucky. We ought to promote community efforts to clean up our natural beauties like the Cumberland Falls, and we ought to be stalwarts of that effort to make sure that our rivers and our waters are clean for the next generation. We ought to require something that's been debated in this session for a number of years; we ought to require a bottle bill and we ought to do it now. I read in the paper this morning, gentleman from Estill, where a group of your students wanted to promote that bill. Well I'm going to sponsor that bill for them. I'm going to sponsor that bill because it's important to me, it's important to them and it's important to Kentucky. It's a statement that we can send out during this session to say we are going to promote a clean environment for our citizens as a goal for the next century.

Last but not least, as Dr. Clark and Dr. Harrison eluded to, we should continue our commitment to educational excellence for all of our children. All of our children, what does that mean? It means that we must not abandon the efforts that have already been made. It doesn't mean that we already have a perfect system. The technology part of the Kentucky Educational Reform Act unfortunately has failed miserably, and we should rededicate ourselves, as the gentlemen from Fleming knows, to reestablishing and putting that system in place so that our children, no matter where they live, whether they live in Clay County or Fayette County or Paducah, wherever, that they'll become computer literate. If they can't use the power of those machines, they will be functionally illiterate in the next century and so I call upon this General Assembly as we begin to renew our commitment to technology in our educational system. Let's reexamine our priorities. I'm not against Empower Kentucky, but I'm for empower Kentucky's children before I'm for Empower Kentucky and I think we should reexamine our spending priorities in that regard, and if we need to establish a completely new department for technology in this state at all levels, elementary, secondary and post-secondary education, to coordinate those efforts and bring technology to all our children, not only at the elementary and secondary level, but across the state in the post-secondary educational level. It's a shame that a child on Pond Creek in Pike County can't get access to a four year public institution without driving four hours, while a child in Fayette County has access to three publicly funded four year institutions within a 35 or 40 minute drive of their home.

And last, but not least, Mr. Speaker, I would call upon this General Assembly to set the tone for the next century by reinvesting in another sacred resource. That resource we sometimes overlook or sometimes even in the past we've had an occasion to look down on, and that's the citizens that are most vulnerable in our society. We will not be judged by how fast and how high the stock market rose or how much the barons of business contributed to their bottom line. We will be judged as a society by how much effort we put in helping our most vulnerable citizens, the blacks, the poor, the old, the uneducated, the untrained, our farmers who rest on the verge of uneconomic prices because of what may happen with the tobacco program, our workers who aren't trained and able to meet the demands of the 21st century, our coal miners, who don't even have a remedy at law now. We must rededicate and rethink government's role in their lives. Government, government exists by the will of the people for all of the people and those of us who are fortunate enough to serve at the will of the people, ought to always be mindful that we do so for all of the people, even though sometimes their voices aren't heard, we should see their faces. We should know their problems and we should try to make their lives better and if we do that, and if we can make an effort to start the next century in that regard, I truly think that it will be a bright one for Kentucky.

Mr. Speaker I'll end with a story. It seems that at the great research institution, the University of Kentucky, Dr. Clark, that they performed a very interesting research project. They took two little children, one who had displayed the characteristics of a pessimist and one who had displayed the characteristics of an optimist, and the child psychologist at the University of Kentucky wanted to see what would happen if you placed them in a different environment. So they took the child with the very pessimistic viewpoint and placed him in a room full of brand new toys, everything you could imagine, and they took the child that had the optimistic viewpoint and put him in a room full of horse manure, and after about four hours, they came back and they opened the door and there sat the child who had the pessimistic attitude crying in the middle of the room. He had broken every toy. They wondered what happened. They opened the door to the little boy who was in the room full of horse manure, and there he sat with the shovel digging as hard as he could. One of the professors looked at him, "What are you doing?" He said, "Professor, there's bound to be a pony in here somewhere." Mr. Speaker, ladies and gentlemen, thank you and God bless you.

Representative Stumbo moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

HR 4, by Representative Richards: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 1998 Regular Session with prayer.

Representative Stumbo moved the adoption of the following **HR 4**:

HR 4, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the 1998 Regular Session with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Clerk of the House be directed to invite the pastors of the various churches of Frankfort to attend meetings of the House of Representatives and open daily sessions of the 1998 Regular Session with prayer. There being no objection **HR 4** was adopted.

HR 5, by Representative Richards: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Representative Stumbo moved the adoption of the following **HR 5**:

HR 5, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the 1998 Regular Session of the General Assembly is prepared to receive any message that he may care to deliver. There being no objection **HR 5** was adopted.

The Speaker appointed the following members to wait upon the Governor: Representatives Crall, Wilkey, Marzian, Palumbo, McKee and Collins.

Representative Stumbo moved that the reading, title, and sponsor of prefiled bills be waived and spread upon the Journal by appropriate number and sponsors in the usual manner. Agreed.

Introduction of Bills and Resolutions

HB 1, by Representative R. Adams: AN ACT relating to water safety and declaring an emergency.

HB 2, by Representatives Damron, Bruce, R. Adams, Gooch, Murgatroyd, Marcotte, Pope, Baugh, Crall, Cox, Vincent, Reinhardt, Maricle, Newsome, Alexander, Stacy, Stine, Ratliff, Ballard, Bowling, Stewart, Ford, Hogancamp, Napier, D. Graham, A. Arnold, Treesh, McKee, Richards, P. Clark, Hoover, Heleringer, Gee, Lee, J. Adams, Siler, Gray, Turner, Brown, Hoffman, Jordan, Nunn, Collins, Adkins, Anderson, Cave, Crimm, Riggs, Long, Simpson, Brandstetter, Thomas and Worthington: AN ACT relating to elementary and secondary education.

HB 3, by Representative L. Clark: AN ACT relating to state financial administration.

HB 4, by Representative Nunn: AN ACT relating to water pollution.

HB 5, by Representative Hogancamp: AN ACT relating to abortion.

HB 6, by Representative Maricle: AN ACT relating to voting and declaring an emergency.

HB 7, by Representative L. Clark: AN ACT relating to revenue and taxation.

HB 8, by Representative Nunn: AN ACT relating to workers' compensation.

HB 9, by Representative Geveden: AN ACT proposing an amendment to Sections 117, 119, and 122 of the Constitution of Kentucky relating to the selection of justices and judges of the Court of Justice.

HB 10, by Representatives Gooch and Murgatroyd: AN ACT relating to motor vehicle usage tax.

HB 11, by Representatives Bruce, Damron, Gooch, Crall, Cox, Yonts, Kerr, Walton, Stine, Hogancamp, Miniard, Pope, and Crimm: AN ACT relating to marriage.

HB 12, by Representatives Gooch and Murgatroyd: AN ACT relating to motor vehicle usage tax.

HB 13, by Representatives Baugh and Hogancamp: AN ACT relating to marriage.

HB 14, by Representative Nesler: AN ACT relating to motor vehicle instruction permits.

HB 15, by Representative Geveden: AN ACT relating to special local peace officers.

HB 16, by Representative Callahan: AN ACT relating to high school athletics.

HB 17, by Representatives Murgatroyd and Simpson: AN ACT relating to abandoned motor vehicles.

HB 18, by Representative Baugh: AN ACT relating to the volunteer fire department aid fund.

HB 19, by Representative Baugh: AN ACT relating to motor vehicle usage tax.

HB 20, by Representative Baugh: AN ACT relating to motor vehicle usage tax.

HB 21, by Representative Burch: AN ACT relating to youth status in relation to substances and violence.

HB 22, by Representative Geveden: AN ACT relating to property transfers.

HB 23, by Representative Geveden: AN ACT relating to the use of juries in competency hearings conducted in guardianship proceedings.

HB 24, by Representative Crimm: AN ACT relating to hunting and fishing licenses.

HB 25, by Representatives Yonts, Bruce, J. Adams, Gooch, Pope, Callahan, Ballard, Geveden, Haydon and Weaver: AN ACT relating to crimes and punishments.

HB 26, by Representatives Simpson and Murgatroyd: AN ACT relating to crimes and punishments.

HB 27, by Representative Bowling: AN ACT relating to capital punishment and declaring an emergency.

HB 28, by Representative Murgatroyd: AN ACT changing the classification of the City of Crescent Springs, in Kenton County.

HB 29, by Representative Vincent: AN ACT relating to school-based decision making councils.

HB 30, by Representative Crimm: AN ACT relating to health insurance.

HB 31, by Representative Nunn: AN ACT relating to animal euthanasia.

HB 32, by Representative Murgatroyd: AN ACT relating to motor vehicle usage tax.

HB 33, by Representative Vincent: AN ACT relating to crimes and punishments.

HB 34, by Representative Geveden: AN ACT relating to state personnel.

HB 35, by Representative Geveden: AN ACT relating to state personnel.

HB 36, by Representative Mason: AN ACT relating to retirement.

HB 37, by Representative Colter: AN ACT relating to marriage.

HB 38, by Representative Simpson: AN ACT relating to the reemployment of retirees.

HB 39, by Representative Stacy: AN ACT relating to civil actions and declaring an emergency.

HB 40, by Representative L. Clark: AN ACT relating to the licensing of racing associations.

HB 41, by Representative L. Clark: AN ACT relating to consumer protection.

HB 42, by Representative Yonts: AN ACT proposing to amend Section 170 of the Constitution of Kentucky relating to the finances of the Commonwealth.

HB 43, by Representative Yonts: AN ACT proposing to amend Section 170 of the Constitution of Kentucky relating to the finances of the Commonwealth.

HB 44, by Representative Yonts: AN ACT proposing to amend Section 170 of the Constitution of Kentucky relating to the finances of the Commonwealth.

HB 45, by Representative Ballard: AN ACT relating to sales and use tax.

HB 46, by Representative Clarke: AN ACT proposing an amendment to Section 46 of the Constitution of Kentucky relating to consideration of legislation.

HB 47, by Representative Clarke: AN ACT proposing an amendment to Section 1 of the Constitution of Kentucky relating to individual rights.

HB 48, by Representative Murgatroyd: AN ACT relating to public parks.

HB 49, by Representative Bratcher: AN ACT relating to construction within floodplains.

HB 50, by Representative Vincent: AN ACT relating to school personnel.

HB 51, by Representatives Ballard, Gee, Weaver, Siler, J. Adams and Damron: AN ACT relating to approval of capital projects and making an appropriation therefor.

HB 52, by Representatives Thomas, Nunn, Jenkins, Moberly, Colter, Lee, Stacy, Mason, R. Adams, Callahan, Brown, Gray, Marzian, L. Clark, Sims, D. Graham, Vincent, Richards, Adkins, McKee, Scott, Polston, Lile, Bratcher, Haydon, Stumbo, Pope, Collins, Wilkey, J. Adams, A. Arnold, and Siler: AN ACT relating to the Kentucky Law Enforcement Foundation Program fund and the Firefighter's Foundation Program fund.

HB 53, by Representatives Hatcher, Wayne, and Geveden: AN ACT relating to high school diplomas.

HB 54, by Representatives Damron, Stumbo, Crimm, Worthington, Maricle, Newsome, Murgatroyd, Nesler, Simpson, D. Graham, Stewart, Bowling, Geveden, Ford, Brown, Thomas, Sims, Treesh, Baugh, Colter, Cox, Zimmerman, Ballard, Allen, A. Arnold, Hogancamp, Riner, Reinhardt, Anderson, Bruce, Gray, Gee, R. Adams, P. Clark, Deskins, Scott, Coleman, Turner, Weaver, Walton, Crall, Marcotte, Siler, Stacy, and McKee: AN ACT relating to shooting ranges.

HB 55, by Representative Coleman: AN ACT relating to check cashing.

HB 56, by Representatives Wayne, L. Clark, P. Clark, Lile, Marzian, Jordan, DeWeese, Burch, Bratcher, Johns, Heleringer, Crimm, Riner, Jenkins, D. Butler, Horlander, Zimmerman, and Riggs: AN ACT relating to local air boards.

HB 57, by Representative Stein: AN ACT relating to school safety.

HB 58, by Representatives Bruce and Ballard: AN ACT relating to sales tax.

HB 59, by Representative Clarke: AN ACT relating to trust amendments.

HB 60, by Representative Clarke: AN ACT relating to legal representatives.

HB 61, by Representative Clarke: AN ACT relating to civil actions.

HB 62, by Representative P. Clark: AN ACT relating to elections and declaring an emergency.

HB 63, by Representatives Maricle, Clarke, and A. Arnold: AN ACT relating to campaign finance.

HB 64, by Representatives Clarke and A. Arnold: AN ACT relating to elections.

HB 65, by Representative P. Clark: AN ACT relating to revenue and taxation.

HB 66, by Representative Yonts: AN ACT relating to sales tax on horses.

HB 67, by Representatives McKee, Damron, and Pope: AN ACT relating to school attendance.

HB 68, by Representative Riggs: AN ACT relating to volunteer fire departments.

HB 69, by Representative Baugh: AN ACT relating to vocational and technical education and declaring an emergency.

HB 70, by Representatives Crimm, P. Clark, Maricle, Heleringer, Gee, Murgatroyd, Bratcher, Brandstetter, Bruce, Gooch, Riner, Ford, Vincent, Anderson, Allen, Sims, D. Butler, Walton, Treesh and Horlander: AN ACT relating to abortion facilities.

HB 71, by Representative Baugh: AN ACT relating to motor vehicle instruction permits.

HB 72, by Representative Cox: AN ACT relating to income tax and declaring an emergency.

HB 73, by Representative Simpson: AN ACT relating to cellular radio telecommunications facilities.

HB 74, by Representatives Collins, Bowling, Stewart, Bruce, Adkins, Moberly, Long, P. Clark, Yonts, Lee, R. Adams, Gooch, L. Clark, Callahan, Weaver, Horlander, Stumbo, Gray, Polston, Ratliff, Johns, Mason, Stacy, Nunn, Baugh, Haydon, Scott, Colter, Kerr, Vincent, Treesh, Thomas, Sims, Coleman, Lovell, Ballard, Gee, Allen, Deskins, Rader, Maricle, Murgatroyd, D. Graham, Palumbo, Curd, D. Butler, Turner, Riggs, Napier, Lindsey, McKee, Jordan, Marzian, Richards, Wilkey, Alexander, Nesler, A. Arnold, Anderson, Pope, Zimmerman, Cox, Geveden, Jenkins, Brown, Newsome, Hoffman, Marcotte, Damron, Barrows, DeWeese, Bratcher, Heleringer, Simpson, J. Arnold, G. Graham, and Crenshaw: AN ACT relating to the taxation of motor vehicles.

HB 75, by Representative Yonts: AN ACT relating to water districts.

HB 76, by Representatives A. Arnold: AN ACT proposing an amendment to Sections 30 and 31 of the Constitution of Kentucky relating to elections of the General Assembly.

HB 77, by Representative A. Arnold: AN ACT proposing an amendment to Sections 30 and 31 of the Constitution of Kentucky relating to elections of the General Assembly.

HB 78, by Representatives A. Arnold, G. Graham, Stacy, Treesh, McKee, Zimmerman, Richards, Thomas, Barrows, Damron, Crall, Hoffman, D. Graham, and Colter: AN ACT relating to community education.

HB 79, by Representatives A. Arnold and P. Clark: AN ACT relating to elections and declaring an emergency.

HB 80, by Representative Yonts: AN ACT relating to school-based decision making councils.

HB 81, by Representative DeWeese: AN ACT relating to crimes and punishments.

HB 82, by Representative Vincent: AN ACT relating to motor vehicles.

HB 83, by Representatives A. Arnold, McKee, and Gray: AN ACT relating to county road engineers.

HB 84, by Representatives A. Arnold, McKee, and Gray: AN ACT relating to fiscal court reorganization.

HB 85, by Representatives Stine, Kerr, Heleringer, Baugh, Bruce, Colter, Simpson, Murgatroyd, Walton, Gooch, Crimm, Damron, and Hogancamp: AN ACT relating to abortion.

HB 86, by Representative Curd: AN ACT relating to parent and child education.

HB 87, by Representatives Wayne, Riggs, Brandstetter, and Weaver: AN ACT relating to the Kentucky Uniform State Building Code.

HB 88, by Representative Baugh: AN ACT relating to criminal records.

HB 89, by Representative Baugh: AN ACT relating to home incarceration.

HB 90, by Representative Cave: AN ACT relating to assault of sport officials.

HB 91, by Representative Ballard: AN ACT relating to fines for speeding.

HB 92, by Representative L. Clark: AN ACT relating to student attendance.

HB 93, by Representative Haydon: AN ACT relating to licensure of nonmedical home care agencies.

HB 94, by Representative Yonts: AN ACT relating to the sale or disposition of collateral.

HB 95, by Representative Yonts: AN ACT relating to crimes and punishments.

HB 96, by Representative Yonts: AN ACT relating to judicial retirement.

HB 97, by Representative Walton: AN ACT relating to school employees' salaries.

HB 98, by Representative Walton: AN ACT relating to crimes and punishments.

HB 99, by Representative Vincent: AN ACT relating to the lease of motor vehicles.

HB 100, by Representatives Colter, Siler, Damron, Mason, Coleman, Bowling, Stewart, Scott, and Zimmerman: AN ACT relating to school administrators.

HB 101, by Representative Ballard: AN ACT relating to sales and use taxation.

HB 102, by Representative Pope: AN ACT relating to charitable gaming.

HB 103, by Representative Mason: AN ACT relating to registration plates.

HB 104, by Representative Curd: AN ACT relating to school district superintendents.

HB 105, by Representative Lee: AN ACT relating to petroleum underground storage tanks.

HB 106, by Representative P. Clark: AN ACT relating to the operation of motorcycles.

HB 107, by Representative Wayne: AN ACT relating to building inspections.

HB 108, by Representative Stumbo: AN ACT relating to legislative compensation.

HB 109, by Representatives Damron and Wayne: AN ACT relating to parks funding.

HB 110, by Representatives Damron and Wayne: AN ACT relating to maintenance of state assets.

HB 111, by Representative Haydon: AN ACT relating to income tax.

HB 112, by Representative Geveden: AN ACT relating to securities.

HB 113, by Representative Yonts: AN ACT relating to compulsory school attendance.

HB 114, by Representative Crimm: AN ACT relating to sales and use tax.

HB 115, by Representative Coleman: AN ACT relating to drugs.

HB 116, by Representative Crimm: AN ACT relating to liens and declaring an emergency.

HB 117, by Representative Cox: AN ACT relating to public education.

HB 118, by Representative Wayne: AN ACT relating to Medicaid coverage for autism and pervasive developmental disorder.

HB 119, by Representative Thomas: AN ACT relating to sales and use tax.

HB 120, by Representative Mason: AN ACT relating to the establishment of an Office of Aging Services.

HB 121, by Representative Lovell: AN ACT relating to the release of liens.

HB 122, by Representative Thomas: AN ACT relating to aquaculture.

HB 123, by Representative Yonts: AN ACT relating to renewal of automobile insurance.

HB 124, by Representative Mason: AN ACT relating to physicians.

HB 125, by Representative Mason: AN ACT relating to health care for children.

HB 126, by Representative Brandstetter: AN ACT relating to plans review and inspections of buildings.

HB 127, by Representative Brandstetter: AN ACT relating to special districts.

HB 128, by Representative Brandstetter: AN ACT relating to charitable health care services.

HB 129, by Representative Burch: AN ACT relating to public assistance under Title IV-A of the federal Social Security Act.

HB 130, by Representative Burch: AN ACT relating to child support.

HB 131, by Representative Burch: AN ACT relating to tuberculosis testing of children.

HB 132, by Representative Mason: AN ACT relating to the reorganization of the Cabinet for Human Resources.

HB 133, by Representative Damron: AN ACT proposing to amend sections of the Constitution of Kentucky relating to the powers of the General Assembly, including the respective roles of the departments of government.

HB 134, by Representative Damron: AN ACT relating to procurement.

HB 135, by Representative Damron: AN ACT relating to court facilities.

HB 136, by Representative Stumbo: AN ACT relating to juror compensation and jury fees.

HB 137, by Representative Marzian: AN ACT relating to the funding of public transportation.

HB 138, by Representative Richards: AN ACT proposing to amend Section 170 of the Constitution of Kentucky relating to the finances of the Commonwealth.

HB 139, by Representative Richards: AN ACT relating to intangible property tax.

HB 140, by Representative Richards: AN ACT relating to intangible property tax.

HB 141, by Representative L Clark: AN ACT relating to revenue and taxation.

HB 142, by Representative Burch: AN ACT relating to child protection.

HB 143, by Representative Coleman: AN ACT relating to health care.

HB 144, by Representative G. Graham: AN ACT relating to marriage.

HB 145, by Representatives G. Graham and Colter: AN ACT relating to family resource and youth service centers and declaring an emergency.

HB 146, by Representative G. Graham: AN ACT relating to deaf and hard of hearing students.

HB 147, by Representative G. Graham: AN ACT relating to crime stoppers organizations and providing a mechanism for their funding.

HB 148, by Representative G. Graham: AN ACT relating to income taxation.

HB 149, by Representative G. Graham: AN ACT relating to hardship operators' licenses.

HB 150, by Representative G. Graham: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property tax exemptions.

HB 151, by Representatives G. Graham and Yonts: AN ACT relating to local school board members.

HB 152, by Representative G. Graham: AN ACT relating to education.

HB 153, by Representative G. Graham: AN ACT relating to school-based decision making, and declaring an emergency.

HB 154, by Representative G. Graham: AN ACT relating to the Kentucky Historical Society.

HB 155, by Representative G. Graham: AN ACT relating to motor vehicle license plates.

HB 156, by Representative Marzian: AN ACT relating to testing of pregnant women for hepatitis B.

HB 157, by Representative Mason: AN ACT relating to long-term care.

HB 158, by Representative P. Clark: AN ACT relating to naturopathic physicians.

HB 159, by Representative Burch: AN ACT relating to child support and declaring an emergency.

HB 160, by Representative P. Clark: AN ACT relating to the practice of acupuncture.

HB 161, by Representative Burch: AN ACT relating to child support and declaring an emergency.

HCR 1, by Representative Burch: A CONCURRENT RESOLUTION urging the United States Congress to propose an amendment to the Constitution of the United States guaranteeing a right to a clean and healthful environment.

HJR 2, by Representatives Damron and Ballard: A JOINT RESOLUTION directing the Finance and Administration Cabinet to rename the Kentucky Veterans Center the "Thomson-Hood Veterans Center" in honor of Lieutenant Colonel George Thomson and Mrs. Beatrice Hood.

HCR 3, by Representatives Ballard, Bruce, Riggs, Weaver, J. Adams, Lee, Gee, Siler and Damron: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs.

HR 6, by Representative Yonts: A RESOLUTION in recognition of the occasion of the Bicentennial Celebration of Muhlenberg County.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Committees meeting outside the House Chambers. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills

The Clerk reported that the Committee on Committees has referred the following Bills:

Education: **HB 16, HB 100, HB 67, HB 78, HB 86**

Elections: **HB 62, HB 64**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 16, HB 67, HB 78, HB 86, HB 100**

Elections: **HB 62, HB 64**

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 62** and **HB 64**. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 16, HB 100, HB 67, HB 78,** and **HB 86**. Agreed.

Representative Yonts moved the adoption of the following **HR 6**:

HR 6, A RESOLUTION in recognition of the occasion of the Bicentennial Celebration of Muhlenberg County.

WHEREAS, the year 1998 will be the Bicentennial year for Muhlenberg County as a county of this Commonwealth which was created out of Logan and Christian counties by an Act of the Kentucky General Assembly and approved on December 14, 1798; and

WHEREAS, Muhlenberg County has a long history of providing people, service, and economic wealth for the betterment of this great Commonwealth and these United States; and

WHEREAS, Muhlenberg county is a haven for all people who desire economic fulfillment, recreation, retirement, a great place to raise a family, and a place to call home; and

WHEREAS, this honorable body should recognize Muhlenberg County in its Bicentennial year by sending greetings and congratulations upon the occasion of its Bicentennial celebration;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives, convening its first day of this 1998 regular session of the Kentucky General Assembly in the Old Capitol building in Frankfort, Kentucky, and the beginning of the last legislative session of the twentieth century, joins Representative Brent Yonts in sending to the good citizens of Muhlenberg County its warmest greetings, congratulations, and best wishes for the year 1998 as Muhlenberg County celebrates its Bicentennial as a county of the Commonwealth of Kentucky and these United States. There being no objection **HR 6** was adopted.

Representative Yonts moved the adoption of the following **Legislative Citation No. 1**. Agreed.

Whereas, the year 1998 will be the Bicentennial year for Muhlenberg County as a county of this Commonwealth which was created out of Logan and Christian Counties by an Act of the Kentucky General Assembly and approved on December 14, 1798; and Whereas, Muhlenberg County has a long history of providing people, service and economic wealth for the betterment of this great Commonwealth and these United States; and Whereas, Muhlenberg County is a haven for all people who desire economic fulfillment, recreation, retirement, a great place to raise a family, and a place to call home; and Whereas, this Honorable body should recognize Muhlenberg County in its Bicentennial year by sending its greetings and congratulations upon the occasion of its Bicentennial celebration; Now Therefore, Be It Resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky: Section 1. The House of Representatives, convening its first day of this 1998 regular session of the Kentucky General Assembly in the Old Capitol building in Frankfort, Kentucky, and the beginning of the last legislative session of the twentieth century, joins Representative Brent Yonts in sending to the good citizens of Muhlenberg County its warmest greetings, congratulations and best wishes for the year 1998 as Muhlenberg County celebrates its Bicentennial as a county of the Commonwealth of Kentucky and these United States. **Legislative Citation No. 1** was adopted without objection.

Representative Stumbo announced that the floor would remain open to receive bills to be filed for introduction today.

Recess

Representative Stumbo moved for the House to recess until 6:30 p.m. and to reconvene in the new Capitol. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for the introduction of bills. Agreed.

Introduction of Bills (Continued)

HB 162, by Representative Yonts: AN ACT relating to controlled substances.

HB 163, by Representative McKee: AN ACT relating to jail operating expenses.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed. The following members filed requests to have their names added as co-sponsors of Bills: **HB 2,** Representative Kerr; **HB 67,** Representative Yonts; **HB 85,** Marcotte.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m. to receive the Governor. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to grant floor privileges to the Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate. The President of the Senate assumed the Chair and called the Joint Session to order. Prayer by Dr. Steve Pattison, Capital City Christian Church, Frankfort. Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House Chamber to address the Joint Session, appeared with the Governor.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

STATE OF THE COMMONWEALTH

BY GOVERNOR PAUL E. PATTON

TUESDAY, JANUARY 6, 1998 - 7:00 p.m.

Speaker Richards, President Saunders and members of the General Assembly, Justice Stephens and members of the Judiciary, Governor Henry and other members of the Executive, my fellow Kentuckians.

The General Assembly has today convened in regular session to consider the state of the Commonwealth and to adopt changes in our public policies which it deems to be prudent in our continuing quest to promote the common welfare.

I'm here tonight to report to you my view of the state of the Commonwealth and to outline for the people in the broad sense, the course I think we should chart for the new millennium.

Overall, the state of the Commonwealth is good. As our nation enjoys peace and prosperity, so do we in Kentucky, perhaps in even greater measure than our fellow Americans.

Kentucky's experiencing an economic expansion which has continued uninterrupted for 14 years.

Our population's growing, reversing the brain drain of the eighties when many of our best and brightest left the state in pursuit of economic opportunity.

Our unemployment rate is 4.5%, the lowest it's been in more than 20 years. We're creating basic jobs faster than the nation as a whole. In fact, we're fourth among the states in the number of manufacturing jobs gained during the nineties. By almost any measure of economic progress, we rank in the top ten in the country. The output of our farms, factories and mines has continued to fuel our economy and create a better life for our people.

And we're accomplishing this in a safer environment. The number of workplace injuries and illnesses last year was the lowest it's been in ten years. Fewer Kentuckians have lost their lives in fires this past year than in any year since records have been kept. And I'm particularly pleased to learn that our coal mines have had their safest year in history. Only five miners died in Kentucky last year. Now, that's still five too many, but compare that to 1970 when 89 miners lost their lives in Kentucky and you can see that we're making progress.

The first and most fundamental responsibility of government is to protect the lives of its citizens. Your Kentucky State Government's doing that.

Yes, the state of the Commonwealth is good and it's our responsibility to continue to invest in those policies and programs which have improved the safety and welfare of our citizens and sustain the progress that we enjoy in the Commonwealth today. The details of those policies and programs are what we'll be debating during these next three months.

As we consider the hundreds of proposals which'll be offered during this session, we must remember that the three fundamental functions of our government are; to protect our people and their property, improve our infrastructure, and educate our children.

Yes, our children. Not only are they the object of our affection, the reason we work from daylight to dark, the joy that makes life worth living, they're our future, the people who'll build the Kentucky of tomorrow, the ones we will depend on when we're old.

Let us measure every proposal by its effect on them. Let us conduct ourselves as if our child was watching our every move. Abraham Lincoln summarized the role of the children of our society as well as any person could. Let me quote the president. "A child is a person who is going to carry on what you have started. . . sit where you are sitting, and when you are gone, attend to those things which you think are important. You may adopt all the policies you please, but how they are carried out depends on him. He will assume control of your cities, states, and nation. . . The fate of humanity is in his hands."

A hundred and thirty years ago President Lincoln understood how important our children are to the future. Let us dedicate ourselves and this session to the children of Kentucky!!!

I understand that there're several Frankfort-area elementary school students in the Chamber. There they are, up there.

They're here to learn how to lead Kentucky when they're adults. Let's give them a hand.

But for now they're children. Together, let us build for them a Kentucky where they can grow up in safety, get a quality education, raise their families, have unlimited economic opportunities and enjoy a quality of life second to none. Let us make them proud, proud of what we do here, and proud to be a Kentuckian!!!

As we approach a new millenium, Kentucky faces a crossroads, much as we did a hundred years ago. Then, our leaders failed us and our parents paid the price. We paid, and our children will continue to pay, for the lack of vision and courage in our leaders a hundred years ago. Let the same not be said of us a hundred years from now.

There was a time when we let logging and mining despoil our environment. There was a time when thousands of Kentuckians were killed or maimed as they labored to support their families. And there was a time when we didn't appreciate the value of an education. The fundamental cause of our economic and social problems today, is our neglect of education during the past century.

It's not always been that way in Kentucky. Two hundred years ago we were a leader; a leader in medicine, religion, transportation, and political influence. We were also a leader in education.

Yes, if we're going to properly serve our people, we must have a clean environment, safe communities and effective educational programs.

We must be ever vigilant in our effort to preserve our environment. There're lots of things that are unique about Kentucky and one of them is the beauty of the rural parts of the Commonwealth. In fact, that's the most common first response I get when I'm introduced to new people as I travel the world on behalf of Kentucky. "Oh, it's such a beautiful state" is a recurring response. If we're going to continue to enjoy the unique beauty which is Kentucky, then we're going to have to continue to regulate polluting activities, protect our forests, and preserve our wildlife.

This better Kentucky I speak of must have safe streets and communities. We must not tolerate those individuals who threaten our property and our very lives because they have no respect for our laws!!!

We must address our criminal justice system, and I don't mean just build more prisons. We must also make our courts more efficient, our punishments more relevant and our police officers better paid!!!

If we're going to reduce criminal behavior by adults, we have to start with our children. Our prisons are full of adults that we failed when they were children. We must take our juvenile justice system from among the worst in the nation to among the best. We must have a system to treat our children, not just warehouse them. We must give our judges more tools to treat children on a case-by-case basis, we must have effective in-community treatment programs, and we must start the treatment after the first crime, not after the first murder!!!

We may have some adults who are so far gone that prison is the only way to protect ourselves from 'em, but I refuse to give up on our kids!!!

We must not only make our communities safe from pollution and crime, we must make our people feel safe. No matter what else you may have, if you feel insecure, then you can't enjoy life.

And we must make our homes safe. If you can't feel safe in your home, where can you feel safe? And yet domestic violence and child abuse are making some of our homes a living hell for many adults and, yes, for all too many of our children. Parents who abuse their children aren't fit to be parents and any male who would hit a women is not worthy to be called a man!!!

We must drive home one message, violence is not the answer!!!

Yes, we have challenges, but we also have opportunities. If we're going to build a new Kentucky for a new millenium, we must invest in our communities: roads, water, sewer, and recreational, cultural and entertainment facilities. And there's never been a better time to invest. Not only do we have a substantial one-time cash surplus developing, we'll probably never find interest rates lower, or Kentucky's credit higher. Yes, well developed communities are essential to our economic and social progress.

But most of all we must continue to invest in the education of our children. As important as education has been in the past, it'll be doubly important in the future.

Eight years ago, in its finest hour, this legislature moved Kentucky from the back to the front in elementary and secondary education improvement in America. It made Kentucky the leader, in developing a new education system to serve our nation in a new millenium. While the time has come to make improvements which time and experience have made apparent, this is no time to retreat and we will not retreat!!!, We'll continue to improve!!!

Less than a year ago we made a similar commitment to postsecondary education, and the time has now come to fulfill the commitments made in May. We will live up to those commitments, too!!!.

Not only must we ensure that our institutions of postsecondary education serve the needs of our people and businesses, we must also ensure that every Kentuckian can afford a postsecondary education. The time has now come for Kentucky to begin a major new initiative, to help the students of Kentucky and their parents pay the cost of a postsecondary education!!!

Today, our society needs to have all our people educated to a higher level, a level which will more specifically prepare them for today's world of work. If we're going to maximize participation, we must not only make postsecondary education more accessible, we must also make it more affordable!!!

The willingness to address this issue will be the litmus test of our commitment to a new future for Kentucky.

Yes, there're many issues for us to address during these next three months. I've alluded to several of them and there are many more - like safe schools, teachers salaries, benefits for laid-off workers, and of course, health care insurance.

Yes, the challenges of these next three months are formidable and the resources are very limited. Frugal administration and sound fiscal policy is going to result in a substantial cash surplus at the end of this fiscal year. Not only will we be able to refund over $250 million in taxes improperly collected from Kentuckians in past years, we'll also be able to increase our reserve for emergencies and still invest tens of millions of dollars of cash in basic infrastructure. But I must caution you, that recurring revenue to continue existing programs or start new ones will be extremely limited. Our strong economy would've created substantial increases in revenue but during these four years of our administration, we're reducing or eliminating six taxes, an overall General Fund tax cut of over 4%, a return of almost 300 million dollars a year to you, the taxpayer, that you can spend on your family. This is the largest tax cut in the history of the Commonwealth and we can all take credit for it!!!

Kentuckians deserved this relief but, as Lloyd Hall used to say, "You have to take the bone with the pork chop." The net result of these tax cuts is a revenue growth next year of only 4.1%. With 3% inflation, a 4% increase in elementary and secondary education, and a hundred million new dollars already committed to postsecondary education, any new programs must be paid for by reducing the cost of existing programs. We'll be proposing new expenditures, but this budget will not be without pain.

We need to work together, to make the best use of the taxpayer's money, and that's what I've been trying to do as I've kept you informed about the finances of the state and asked for your suggestions.

Many of you've told me that you've had more input into this budget than ever before and I'm glad, because you know best the needs of the people and we want to propose a budget that meets those needs as best we can with limited resources. We're considering all your requests as we prepare the budget. We obviously won't be able to accommodate all of 'em but we will try to be fair. I'll be talking to you in detail about the budget in a couple of weeks, but I hope I've given you and the people of Kentucky a brief overview of some of the things that budget proposal will contain.

I think I've met with every legislator who's requested a meeting to discuss the budget or other policy issues. It may've been at seven o'clock in the morning or eleven o'clock at night but my door's been open to you and that'll continue to be the case throughout this session. Your work will be my entire focus during these next three months.

As we get fully engaged in the serious debates that are about to begin, I invite you to discuss with us your opinions, even if you disagree with us - especially if you disagree with us. You may change our minds, or we may change yours, or we may continue to disagree, but at least we'll have a better understanding of each other's positions.

The time has now come to work together. I call on all of us; me, my cabinet secretaries, all of you, to approach this session without regard to politics and without regard to political considerations even though I fully recognize that we're working in a political arena.

I think I've demonstrated that I intend to be a strong leader of my party and I expect the leaders of the Republican Party to be the same. I recognize that our two-party system is an integral and very important part of our democratic system of government and partisanship has its place but this legislative session is not one of them!!!

I think I've demonstrated my willingness and ability to work with Republicans, in this legislature, in my cabinet, in the business community, and in local government. I'm prepared to continue this very positive relationship.

Most issues we'll face in this session shouldn't be partisan. The education of our children, shouldn't be partisan. Crime in our streets, shouldn't be partisan. The health of our people, shouldn't be partisan.

It's my intention to work with all members of this General Assembly on an equal and non-partisan basis, facing each issue on its merits. I call on all of you to do the same. Let us forget personalities. Let us forget past conflicts and battles. Let us put aside political aspirations and let us refrain from partisan demagoguery!!!

Over these past two years, we've gotten to know each other much better. I and my administration are better prepared to do our jobs; we've learned from our mistakes. We've proven ourselves to be honest and reliable. We may not have always been right , but we've always tried to do what's right as we saw it at the time. I feel the same way about you.

I think the people expect us to work together, even if we can't always agree. In my judgment the people will hold each of us responsible for any attempt to take political advantage of the work we'll be doing here in Frankfort during the next three months. I commit to you that I won't do that.

In conclusion, let me say that I understand and accept the fact that you, the General Assembly, have the last word. That's your responsibility. It's my responsibility to establish the starting point for many of these important issues we'll be addressing. I expect to be actively engaged in all of the important debates during this session. I expect to win some and lose some. But most of all, I expect us together to make all Kentucky a winner!!!

We didn't come here to be spectators. We came here to participate and to act. What we do in this session will affect our people for a hundred years. What we fail to do could haunt us even longer.

These last two years have been the most enjoyable and productive of my life. Every success our administration has enjoyed, has been made possible by this General Assembly. I think our greatest success has been the cooperative relationship we've built, based on equality and mutual respect. I look forward to continuing to work with you in that same spirit of cooperation and mutual respect during these next three months.

A friend of mine once said, "We have three choices in life. We can make things happen, we can watch things happen, or we can wonder what happened."

I came here to make things happen. I know you did too. If we work together in common cause, forgetting ego and political gain, we can make a difference in the lives of all Kentuckians. That's what the people of Kentucky expect; that's what our children deserve, and we should deliver no less!!!

Good night and God bless you.

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Announcements

The following meetings were announced:

Legislative Ethics Commission, Room 131, January 7 and 8, 1998.

Computer training, House Chambers, one hour before session, January 7, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 7, 1998.

On the roll call the vote was **Yeas 74**–J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brown, Bruce, D. D. Butler, Callahan, J. Clarke, Collins, Colter, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rasche, Ratliff, Richards, Riggs, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Yonts, Zimmerman. **Nays 5**--Coleman, Crall, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 7, 1998

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Maricle, and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 6, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed. Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 164, by Representative Clarke: AN ACT proposing an amendment to the Constitution of Kentucky relating to local government finance.

HB 165, by Representative Clarke: AN ACT relating to disposition of property at death.

HB 166, by Representative Clarke: AN ACT relating to property.

HB 167, by Representative Clarke: AN ACT relating to campaign finance.

HB 168, by Representatives Marcotte, Kerr, Walton, and Murgatroyd: AN ACT relating to cellular telecommunications facilities.

HB 169, by Representative Moberly: AN ACT relating to income taxation.

HB 170, by Representatives Moberly, Lee, Richards, Damron, Treesh, Rasche, Yonts, Marzian, Murgatroyd, Colter, Alexander, Kerr, L. Clark, Long, R. Adams, Sims, Stumbo, Barrows, Stein, Bruce, and Callahan: AN ACT relating to revenue and taxation and declaring an emergency.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 31, HB 39, HB 45, HB 58, HB 122**

Appropriations and Revenue: **HB 3, HB 7, HB 10, HB 12, HB 19, HB 20, HB 32, HB 65, HB 66, HB 72, HB 101, HB 108, HB 111, HB 114, HB 119, HB 139, HB 140, HB 141, HB 148, HB 163**

Banking and Insurance: **HB 30, HB 55, HB 94, HB 112, HB 123**

Cities: **HB 28, HB 48, HB 49, HB 56, HB 73, HB 87**

Counties and Special Districts: **HB 15, HB 18, HB 52, HB 68, HB 75, HB 83, HB 84, HB 127**

Education: **HB 2, HB 29, HB 50, HB 53, HB 57, HB 69, HB 80, HB 92, HB 97, HB 104, HB 113, HB 117, HB 146, HB 151, HB 152, HB 153**

Elections and Constitutional Amendments: **HB 6, HB 9, HB 42, HB 43, HB 44, HB 46, HB 47, HB 63, HB 76, HB 77, HB 79, HB 133, HB 138, HB 150**

Health and Welfare: **HB 70, HB 93, HB 118, HB 124, HB 125, HB 128, HB 129, HB 130, HB 131, HB 142, HB 143, HB 145, HB 156, HB 157, HB 158, HB 159, HB 160, HB 161**

Judiciary: **HB 5, HB 11, HB 13, HB 21, HB 22, HB 23, HB 25, HB 26, HB 27, HB 33, HB 37, HB 41, HB 54, HB 59, HB 60, HB 61, HB 81, HB 85, HB 88, HB 89, HB 90, HB 91, HB 95, HB 96, HB 98, HB 115, HB 121, HB 136, HB 144, HB 147, HB 162**

Labor and Industry: **HB 8**

Licensing and Occupation: **HB 40, HB 102**

Natural Resources and Environmental Protection: **HB 4, HB 24, HB 105, HCR 1**

State Government: **HB 34, HB 35, HB 36, HB 38, HB 51, HB 107, HB 109, HB 110, HB 116, HB 120, HB 126, HB 132, HB 134, HB 135, HB 154, HCR 3, HJR 2**

Tourism and Energy: **HB 1**

Transportation: **HB 14, HB 17, HB 71, HB 74, HB 82, HB 99, HB 103, HB 106, HB 137, HB 149, HB 155**

Report of Committee

The Committee on Elections and Constitutional Amendments reported **HB 62**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 62, AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party ***on December 31 immediately preceding the primary***[~~at the time of the preceding regular~~] election, or, in the case of new registrations ***made after December 31 immediately preceding the primary election, he shall***[~~not involving a change of political affiliation made after the preceding regular election,~~] have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors ***seventeen (17) years of age*** who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.

Section 2. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

   (a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

   "For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ----- Party, I, ----- (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at No. ------ street in the City of -----, State of Kentucky, and that I am a registered ----- (party) voter in ------ precinct, City of -----; that I believe in the principles of the ------ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party ***on December 31 immediately preceding the primary election at which I seek the nomination of the party*** and supported its nominees at the last regular election, or was prevented from doing so by reason of ------ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

   The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

   (b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ----- Party, I, -----, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at ----- in the City of -----, State of Kentucky, and that I am a registered ----- (party) voter in ----- precinct, City of -----; and I, -----, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at ----- in the City of -----, State of Kentucky, and that I am a registered ----- (party) voter in ----- precinct, City of -----; that we believe in the principles of the ----- Party, and intend to support its principles and policies and vote for its nominees in the regular election at which a Governor and Lieutenant Governor are elected; that we will be or were affiliated with that party ***on December 31 immediately preceding the primary election at which I seek the nomination of the party*** and will support or supported its nominees at the regular election preceding the year in which a Governor and Lieutenant Governor are elected, or will be or were prevented from doing so by reason of ------ (state reason here for the candidate for Governor) ------ (state reason here for the candidate for Lieutenant Governor); that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to by the persons making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 3. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party ***on December 31 immediately preceding the regular election for which the person seeks to be a candidate***~~[at the time of the last preceding regular election]~~. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 4. KRS 116.112 is amended to read as follows:

(1) The State Board of Elections shall establish a voter registration purge program using the change-of-address information supplied by the United States Postal Service through its licensees or other sources to identify voters whose addresses may have changed.

(2) If it appears from information provided by the postal service or other sources that a voter has moved to a different address in the same county in which the voter is currently registered, the State Board of Elections shall provide to the county board of elections the information necessary to change the registration records to show the new address and the county board of elections shall send the voter a notice of the change by forwardable mail and a postage prepaid, pre-addressed return form by which the voter may verify or correct the address information.

(3) If it appears from information provided by the postal service or other sources that a voter has moved to a different address not in the same county, the State Board of Elections shall send to the address from which the voter was last registered, by forwardable mail, a notice on a form prescribed by the State Board of Elections, with a postage prepaid and pre-addressed return card on which the voter may state his current address. If a county board of elections requests authorization from the state board to send address confirmation notices as provided in this subsection, the state board shall grant the request.

(4) ***A county clerk may request from any utility company doing business in the clerk's county information about utility service connections or disconnections completed in any county to assist the county clerk in maintaining accurate address information on the voter registration records. A utility company shall provide to the county clerk the name, address, and Social Security number of its patrons, if requested. This conveyance of information shall not be construed in any manner as a breach of privacy of a utility patron by the utility company. A county clerk may change the address of a voter on the voter registration rolls by virtue of information, received from a utility company, that indicates that the voter has changed residences within the county and shall notify the voter of the new voting precinct name and location by mail. A county clerk shall not remove the name of a voter from the voter registration records on the basis of information, received from a utility company, that indicates that utility service has been disconnected because the voter has changed his residence or because of nonpayment of a utility service account without the independent confirming documentation required by subsection (5) of this section.***

(5) The state or county boards of elections shall not remove the name of a voter from the registration records on the ground that the voter has changed his residence unless the voter:

(a) Confirms in writing that the voter has changed residence to a place outside the county; or

(b) 1. Has failed to respond to the notice described in subsection (3) of this section; and

2. Has not voted or appeared to vote and, if necessary, correct the registration records of the voter's address in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(c) If a county board of elections requests authorization from the state board to conduct purges of voters in its county in accordance with the provisions of this subsection, the state board shall grant the request.

(6)[~~(5)~~] The State Board of Elections shall establish an inactive list of all voters who fail to respond to the notice described in subsection (3) of this section and do not vote or appear to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice. If a county board of elections requests authorization from the state board to establish an inactive list of voters for its county, the state board shall grant the request.

(7)[~~(6)~~] The State Board of Elections shall complete, not later than ninety (90) days prior to the date of a primary or general election, any program the purpose of which is to systematically remove the names of ineligible voters from the registration records.

(8)[~~(7)~~] Voters placed on an inactive list are to be counted only for purposes of voting and not for purposes of establishing or modifying precincts, calculating the amount of reimbursement of county clerks by the State Board of Elections for certain election-related expenses, or reporting official statistics, except as provided by the Federal Election Commission's regulations promulgated pursuant to the National Voter Registration Act of 1993.

(9)[~~(8)~~] (a) The State Board of Elections and county boards of elections shall maintain for at least two (2) years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records, except to the extent that the records relate to the declination to register to vote or the identity of a voter registration agency through which any particular voter is registered.

(b) The records maintained pursuant to paragraph (a) of this subsection shall include lists of the names and addresses of all persons to whom notices described in subsection (3) are sent, and information concerning whether each person has responded to the notice as of the date that inspection of the records is made.

Section 5. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, ***except in a year in which no primary and regular elections are scheduled,*** appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. ***If a special election is ordered to be held in a year in which no elections are scheduled,***

the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section. The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each party state central committee of the duties of the party.

(4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) ***In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.***

(7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(8)[~~(7)~~] The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(9)[~~(8)~~] An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for ***one (1) year***[~~two (2) years~~] prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.

(10)[~~(9)~~] If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(11)[~~(10)~~] Each election officer shall be paid a minimum of sixty dollars ($60) per ***election*** day ***served***, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the ***precinct election***[~~two (2)~~] judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the ***precinct election***[~~two (2)~~] judges for delivering election returns shall be paid by the county.

Section 6. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, disability or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for ***an***[~~a paper~~] absentee ballot containing a verified statement that his inability to appear is due to age, disability, or illness. The request for the application may be made by telephone, facsimile machine, mail, or in person. Upon receipt of the application, the clerk shall immediately mail to the voter ***an***[~~a paper~~] absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 7. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***an***[~~a paper~~] absentee ballot. The application shall state that the emergency condition occurred within the seven (7) day period and shall be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or children of the voter. If the voter has no spouse, parents or children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***an***[~~a paper~~] absentee ballot.

Section 8. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for an absentee ballot shall be transmitted only by mail or in person ***at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter***[~~as specifically provided by this section~~]. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no[~~ paper~~] absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***an***[~~a paper~~] absentee ballot as provided in this section and who is properly registered as stated in his application.

(a) The following voters may apply to cast their votes by[~~ paper~~] absentee ballot at any time not later than the close of business hours seven (7) days before the election:

1. Voters permitted to vote by[~~ paper~~] absentee ballot pursuant to KRS 117.075[~~ or KRS 117.077~~];
2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
3. Students who ***temporarily reside***[~~live~~] outside the county of their residence and other voters who ***temporarily reside***[~~live~~] outside the state but who are still eligible to vote in this state; and
4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime.

[~~Any other qualified voter in any county who is not permitted to vote by paper absentee ballot who shall be absent~~

~~from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above. Requests for an application for a paper absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for a paper absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a paper absentee ballot to a voter permitted to vote by paper absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The paper absentee ballot application shall be restricted to use of the voter or the spouse, parents, or children of the voter.~~]

(b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for ***an***[~~a paper~~] absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for ***an***[~~a paper~~] absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.

(c) ***Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.***

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e)[~~(d)~~]The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

(f)[~~(e)~~] Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(2) The clerk shall type the name of the voter permitted to vote by[~~ paper~~] absentee ballot on the application form for that person's use and no other. The[~~ paper~~] absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for ***an***[~~a paper~~] absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive ***an***[~~a paper~~] absentee ballot ***by mail***, he shall mail to the voter ***an***[~~a paper~~] absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) [~~Paper~~]Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and[~~ paper~~] absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and ***fifteen (15)***[~~ten (10)~~] days prior to each runoff primary.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received ***an***[~~a paper~~] absentee ballot ***by mail*** but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his[~~ paper~~] absentee ballot and vote in person. He shall return his[~~ paper~~] absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the[~~ paper~~] absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent[~~ paper~~] absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 9. KRS 117.086 is amended to read as follows:

(1) The voter returning his[~~ paper~~] absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the[~~ paper~~] ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***an***[~~a paper~~] absentee ballot by mail under the provisions of KRS 117.085, and all members of county boards of elections and precinct election officers qualified to vote prior to the election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:

(a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.

(b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.

(3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."

(4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6) The clerk shall deposit all of the[~~ returned paper~~] absentee ballots ***returned by mail*** in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of

the board of elections, and the equipment shall remain locked until the ballots are counted.

(7) The clerk shall keep a list of all persons who return their~~[paper]~~ absentee ballots ***by mail*** or cast their ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of votes cast by~~[paper]~~ absentee ballots ***returned by mail*** and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, cast in any election as a part of the official returns of the election.

Section 10. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent or annual basis, any person voting by means of ***an***~~[a paper]~~ absentee ballot ***by mail*** or on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of ***an***~~[a paper]~~ absentee ballot ***by mail*** or on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all~~[paper]~~ absentee ***ballot envelopes***~~[ballots]~~ shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

Section 11. KRS 117.087 is amended to read as follows:

(1) The challenge of ***an***~~[a paper]~~ absentee ballot ***returned by mail*** shall be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the~~[paper]~~ absentee ballots ***returned by mail*** and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. The board may appoint a central ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board shall meet at the clerk's office to count the~~[paper]~~ absentee ballots ***returned by mail*** and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of the ballots. The board shall open the boxes containing~~[paper]~~ absentee ballots ***returned by mail*** and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned~~[paper]~~ absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter who cast ***an***~~[a paper]~~ absentee ballot ***by mail*** is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the~~[paper]~~ absentee ballots in the box. The board shall open the ballot box, remove the~~[paper]~~ absentee ballots from the inner envelopes, and count the ballots.

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided for in KRS 117.086 and a total of all ballots shall be made and recorded on the form provided by the State Board of Elections.

(7) The county board of elections shall make public the ballot results determined as provided in this section after 6 p.m.

Section 12. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training ***before each primary and regular election*** to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

- (a) Operation of the voting machine or ballot cards;
- (b) Posting of necessary signs and notices at the polling place;
- (c) Voter assistance;
- (d) Maintaining precinct rosters;
- (e) Confirmation of a voter's identity;
- (f) Challenge of a voter;
- (g) Completing changes of address or name at the polling place;
- (h) Qualifications for voting in a primary election;
- (i) Electioneering and exit polling;
- (j) Write-in voting procedures;
- (k) Persons who may be in the voting room;
- (l) Election violations and penalties;
- (m) Assistance which may be provided by law enforcement officers; and
- (n) Election reports.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ten dollars ($10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 13. KRS 117.227 is amended to read as follows:

Election officers shall confirm the identity of each voter by personal acquaintance or by a document, such as a motor vehicle operator's license, Social Security card,[~~ or~~] credit card***, or any identification card that displays the voter's picture and signature***.[~~ If the voter has no identification in his possession, the election officer shall require the voter to complete the affidavit which is required to be completed by a voter whose right to vote is challenged.~~] The election officer confirming the identity shall sign the precinct voter roster and list the method of identification.

Section 14. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) ***Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form***[~~Voters who require assistance in voting on a permanent basis due to a permanent disability, or who require assistance in voting on an annual basis because of an inability to read English or because of a temporary disability, may apply to the county board of elections for certification of that need for voting assistance. Application may be made when registering to vote or at any time prior to the close of the voter registration books prior to an election by completing the voter assistance form indicating that the reason for obtaining assistance is permanent or temporary. The county board of elections shall determine whether the applicant requires voting assistance on a permanent or annual basis. The county board of elections shall notify the county clerk of a certification of a need for voting assistance and the county clerk shall enter the appropriate certification on the voter's registration record. The State Board of Elections shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance on a permanent or annual basis without completing voter assistance forms at the precinct on the day of an election~~].

(3) ***Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he prefers, be assisted by a person of his own choice who is not an election officer,***

except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter[~~A voter who requires assistance in voting may be assisted by a person of his choice, except that the voter's employer, an agent of that employer, or an officer or agent of that voter's union shall not assist the voter. If a voter who requires assistance in voting does not bring someone to the polls to assist him in voting, assistance shall be rendered as follows:~~

~~(a) A voter who has been certified as requiring assistance on a permanent or annual basis may select a person at the polls to assist him in voting or, if the voter does not do so, the two (2) election judges shall assist the voter; and~~

~~(b) A voter who has not been certified as requiring assistance on a permanent or annual basis shall be assisted by the two (2) election judges~~].

(4) ***The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs***[~~Except for those voters who have been certified as requiring assistance on a permanent or annual basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of an inability to read English, or by reason of disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form~~].

(5) ***A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct***[~~Upon making and filing with the judges the oath, if required, the voter shall retire to the voting machine or area provided for completing a ballot, with the person who will assist him in voting, and the person providing assistance shall operate the machine or complete the ballot as the voter directs~~].

(6)[~~The precinct election clerk shall swear the person accompanying a voter with a disability or a voter who is unable to read English to operate the voting machine in accordance with the directions of the voter and the person sworn shall enter the voting booth or ballot completion area and the one sworn shall operate the machine or complete the ballot for the voter as the voter directs.~~

~~(7)~~] "Voting booth" or "ballot completion area" ***means***[~~ shall mean~~] an area in which a voter casts his vote or completes his ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific reason that requires him to receive assistance.

(7)[~~(8)~~] No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8)[~~(9)~~] In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9)[~~(10)~~] If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10)[~~(11)~~] The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11)[~~(12)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12)[~~(13)~~] The election sheriff shall be responsible for reporting violations of this section.

Section 15. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot ***for a regular or special election*** may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of

his choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) ***A person shall be ineligible as a write-in candidate for more than one (1) office in a regular or special election.***

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5)[~~(4)~~] The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6)[~~(5)~~] Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

[~~(6) The provisions of this section requiring the filing of a declaration of intent shall not apply to elections for municipal office in cities of the fifth or sixth class, and all write-in votes shall be counted, regardless of whether a declaration was filed.~~]

SECTION 16. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) No person or committee shall accept or agree to accept, either directly or indirectly, from a candidate, slate of candidates, committee, contributing organization, or any person required to file reports under KRS 121.180, or from a person on behalf of a candidate, slate of candidates, committee, contributing organization, or person so required to file reports, anything of economic value, including any reimbursement of costs, for the purpose of transporting a voter or causing a voter to be transported in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of any motor vehicle being so used.

(2) No candidate, slate of candidates, committee, contributing organization, or person required to file reports under KRS 121.180, and no person on behalf of a candidate, slate of candidates, committee, contributing organization, or person so required to file reports, shall pay or agree to pay anything of economic value, including any reimbursement of costs, to any person or committee for the purpose of transporting a voter or causing a voter to be transported in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of a motor vehicle being so used.

(3) A person who violates the provisions of subsection (1) or (2) of this section shall be assessed a civil fine of two thousand five hundred dollars ($2,500). For a second violation, or for any succeeding violation, the penalty shall be a civil fine of five thousand dollars ($5,000) for each violation.

(4) (a) The provisions of this section shall not be applicable to any person who gratuitously transports voters to the polls on election day or who gratuitously transports voters to vote absentee.

(b) The provisions of this section shall not prohibit paying or offering or agreeing to pay any bona fide bus, taxi, or transportation service, if it holds a license or permit duly issued by the appropriate governmental entity and regularly does business in the area, to transport a voter to vote or vote absentee, nor shall this section prohibit any such bus, taxi, or transportation service from accepting or agreeing to accept such a payment.

Section 17. KRS 119.205 is amended to read as follows:

(1) Any person who makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(2) Any person who solicits, accepts, or receives any such expenditure as payment or consideration for his vote, or the withholding of his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(3) For purposes of this section, "expenditure" means any of the following when intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question:

(a) A payment, distribution, loan, advance, deposit, or gift of money or anything of value; or

(b) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a payment, distribution, loan, advance, deposit, or gift of money or anything of value.

"Expenditure," as used in this section, shall not include the distribution of materials bearing the name, likeness, or other identification of a candidate, political party, committee, or organization, or position on a public question and not intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question.

(4)[~~Any candidate or committee, or any person on his behalf, who pays any person, including campaign workers, for transporting voters to the polls on the day of the election, shall make all payments by check. All payments, regardless of amount, shall be reported to the Registry of Election Finance in the manner that the Registry shall provide by administrative regulation. Any person who knowingly violates any requirement of this subsection shall be guilty of a Class B misdemeanor.~~

~~(5)~~] In addition to the above provisions, a person may be convicted of a violation of this section pursuant to KRS 502.020.

Section 18. KRS 160.210 is amended to read as follows:

(1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315 and 118.316, the chief state school officer shall fill the new term of office by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts***,***[~~ or~~] a change in territory due to annexation***, or to allow compliance with KRS 117.055(2)***.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school

board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

Section 19. The provisions of Section 1 of this Act shall be applied prospectively from the effective date of this Act. A voter who has changed political party affiliations on his voting registration record during the period beginning November 12, 1996, and ending at the close of business on the effective date of this Act shall be permitted to vote in the May, 1998 primary election for the political party with which the voter is affiliated on the effective date of this Act. A person who is not registered to vote on the effective date of this Act who completes a voter registration application during the period beginning with the effective date of this Act and ending at the close of business on April 17, 1998, shall be eligible to vote in the primary election to be held on May 26, 1998, if the person has registered as a member of a political party and has remained registered as a member of the same political party in whose primary election he seeks to vote since completing his voter registration application.

Section 20. Whereas the provisions of this Act are necessary to administer the May primary election in an effective and constitutional manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 62** is as follows:

AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party ***on December 31 immediately preceding the primary***~~[at the time of the preceding regular]~~ election, or, in the case of new registrations ***made after December 31 immediately preceding the primary election, he shall***~~[not involving a change of political affiliation made after the preceding regular election,]~~ have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors ***seventeen (17) years of age*** who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.

Section 2. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) .The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

(a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ----- Party, I, ----- (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at No. ----- street in the City of -----, State of Kentucky, and that I am a registered ------ (party) voter in ----- precinct, City of -----; that I believe in the principles of the ----- Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party ***on December 31 immediately preceding the primary election at which I seek the nomination of the party*** and supported its nominees at the last regular election, or was prevented from doing so by reason of ------ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ----- Party, I, -----, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at ----- in the City of -----, State of Kentucky, and that I am a registered ----- (party) voter in ----- precinct, City of -----; and I, -----, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that I reside at ----- in the City of -----, State of Kentucky, and that I am a registered ----- (party) voter in ----- precinct, City of -----; that we believe in the principles of the ----- Party, and intend to support its principles and policies and vote for its nominees in the regular election at which a Governor and Lieutenant Governor are elected; that we will be or were affiliated with that party ***on December 31 immediately preceding the primary election at which I seek the nomination of the party*** and will support or supported its nominees at the regular election preceding the year in which a Governor and Lieutenant Governor are elected, or will be or were prevented from doing so by reason of ----- (state reason here for the candidate for Governor) ----- (state reason here for the candidate for Lieutenant Governor); that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to by the persons making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 3. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party ***on December 31 immediately preceding the regular election for which the person seeks to be a candidate***[~~at the time of the last preceding regular election~~]. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the

candidate by certified mail within twenty-four (24) hours of filing.

Section 4. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, ***except in a year in which no primary and regular elections are scheduled,*** appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242. ***If a special election is ordered to be held in a year in which no elections are scheduled, the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section.*** The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each party state central committee of the duties of the party.

(4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) ***In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.***

(7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(8)[~~(7)~~] The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(9)[~~(8)~~] An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for ***one (1) year***[~~two (2) years~~] prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.

(10)[~~(9)~~] If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(11)[~~(10)~~] Each election officer shall be paid a minimum of sixty dollars ($60) per ***election*** day ***served***, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the ***precinct election***[~~two (2)~~] judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the ***precinct election***[~~two (2)~~] judges for delivering election returns shall be paid by the county.

Section 5. KRS 117.075 is amended to read as follows:

(1) Any qualified voter who has not been declared mentally disabled by a court of competent jurisdiction, and who, on account of age, disability or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election and prior to the close of normal business hours, he shall present to the clerk by mail or in person his application for ***an***[~~a paper~~] absentee ballot containing a verified statement that his inability to appear is due to age, disability, or illness. The request for the application may be made by telephone, facsimile machine, mail, or in person. Upon receipt of the application, the clerk shall immediately mail to the voter ***an***[~~a paper~~] absentee ballot and envelopes, and the voter shall cast his vote in accordance with KRS 117.086. The ballot shall be returned by the voter to the county clerk by mail.

(2) Ballots furnished pursuant to the provisions of this section shall include the names of all candidates for which the voter is entitled to vote.

Section 6. KRS 117.077 is amended to read as follows:

In case of a medical emergency within seven (7) days or less of an election, a registered voter may apply for ***an***[~~a paper~~] absentee ballot. The application shall state that the emergency condition occurred within the seven (7) day period and shall be notarized. The application form shall be restricted to the use of the voter or the spouse, parents or children of the voter. If the voter has no spouse, parents or children, the application form shall be restricted to the use of the voter or the brother, sister, niece or nephew of the voter. Upon receipt of the application and verification, the county clerk shall issue ***an***[~~a paper~~] absentee ballot.

Section 7. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for an absentee ballot shall be transmitted only by mail or in person ***at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application shall be restricted to the use of the voter or the spouse, parents, or children of the voter***[~~as specifically provided by this section~~]. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no[~~ paper~~] absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for ***an***[~~a paper~~] absentee ballot as provided in this section and who is properly registered as stated in his application.

(a) The following voters may apply to cast their votes by[~~ paper~~] absentee ballot at any time not later than the close of business hours seven (7) days before the election:

1. Voters permitted to vote by[~~ paper~~] absentee ballot pursuant to KRS 117.075[~~ or KRS 117.077~~];

2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed

Forces, and citizens residing overseas;

3. Students who ***temporarily reside***[~~live~~] outside the county of their residence and other voters who ***temporarily reside***[~~live~~] outside the state but who are still eligible to vote in this state; and

4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime.

[~~Any other qualified voter in any county who is not permitted to vote by paper absentee ballot who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above. Requests for an application for a paper absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. All applications for a paper absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a paper absentee ballot to a voter permitted to vote by paper absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The paper absentee ballot application shall be restricted to use of the voter or the spouse, parents, or children of the voter.~~]

(b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for ***an***[~~a paper~~] absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for ***an***[~~a paper~~] absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.

(c) ***Any other qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on at least any of the twelve (12) working days before the election, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election prescribed above.***

(d) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.

(e)[~~(d)~~]The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

(f)[~~(e)~~] Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

(2) The clerk shall type the name of the voter permitted to vote by[~~ paper~~] absentee ballot on the application form for that person's use and no other. The[~~ paper~~] absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct,

and the voter's mailing address for ***an***[~~a paper~~] absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive ***an***[~~a paper~~] absentee ballot ***by mail***, he shall mail to the voter ***an***[~~a paper~~] absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) [~~Paper~~]Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and[~~ paper~~] absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election and ***fifteen (15)***[~~ten (10)~~] days prior to each runoff primary.

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received ***an***[~~a paper~~] absentee ballot ***by mail*** but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his[~~ paper~~] absentee ballot and vote in person. He shall return his[~~ paper~~] absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the[~~ paper~~] absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent[~~ paper~~] absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 8. KRS 117.086 is amended to read as follows:

(1) The voter returning his[~~ paper~~] absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the[~~ paper~~] ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who shall be absent from the county on election day, but who does not qualify to receive ***an***[~~a paper~~] absentee ballot by mail under the provisions of KRS 117.085, and all members of county boards of elections and precinct election officers qualified to vote prior to the election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:

  (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.

  (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.

(3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."

(4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6) The clerk shall deposit all of the~~[returned paper]~~ absentee ballots ***returned by mail*** in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.

(7) The clerk shall keep a list of all persons who return their~~[paper]~~ absentee ballots ***by mail*** or cast their ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and send a copy of that list to the state board after election day. The county clerk and the Secretary of State shall keep a record of the number of votes cast by~~[paper]~~ absentee ballots ***returned by mail*** and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, cast in any election as a part of the official returns of the election.

Section 9. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent or annual basis, any person voting by means of ***an***~~[a paper]~~ absentee ballot ***by mail*** or on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of ***an***~~[a paper]~~ absentee ballot ***by mail*** or on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all~~[paper]~~ absentee ***ballot envelopes***~~[ballots]~~ shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The State Board of Elections shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

Section 10. KRS 117.087 is amended to read as follows:

(1) The challenge of ***an***~~[a paper]~~ absentee ballot ***returned by mail*** shall be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the~~[paper]~~ absentee ballots ***returned by mail*** and the votes cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. The board may appoint a central ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board shall meet at the clerk's office to count the~~[paper]~~ absentee ballots ***returned by mail*** and the ballots cast on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of the ballots. The board shall open the boxes containing~~[paper]~~ absentee ballots ***returned by mail*** and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned~~[paper]~~ absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter who cast ***an***~~[a paper]~~ absentee ballot ***by mail*** is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the~~[paper]~~ absentee ballots in the box. The board shall open the ballot box, remove the~~[paper]~~ absentee ballots from the inner envelopes, and count the ballots.

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, as provided for in KRS 117.086 and a total of all ballots shall be made and recorded on the form provided by the State Board of Elections.

(7) The county board of elections shall make public the ballot results determined as provided in this section after 6 p.m.

Section 11. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training ***before each primary and regular election*** to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

(a) Operation of the voting machine or ballot cards;
(b) Posting of necessary signs and notices at the polling place;
(c) Voter assistance;
(d) Maintaining precinct rosters;
(e) Confirmation of a voter's identity;
(f) Challenge of a voter;
(g) Completing changes of address or name at the polling place;
(h) Qualifications for voting in a primary election;
(i) Electioneering and exit polling;
(j) Write-in voting procedures;
(k) Persons who may be in the voting room;
(l) Election violations and penalties;
(m) Assistance which may be provided by law enforcement officers; and
(n) Election reports.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ten dollars ($10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 12. KRS 117.227 is amended to read as follows:

Election officers shall confirm the identity of each voter by personal acquaintance or by a document, such as a motor vehicle operator's license, Social Security card,[~~ or~~] credit card***, or any identification card that displays the voter's picture and signature***.[~~ If the voter has no identification in his possession, the election officer shall require the voter to complete the affidavit which is required to be completed by a voter whose right to vote is challenged.~~] The election officer confirming the identity shall sign the precinct voter roster and list the method of identification.

Section 13. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) ***Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form***[~~Voters who require assistance in voting on a permanent basis due to a permanent disability, or who require assistance in voting on an annual basis because of an inability to read English or because of a temporary disability, may apply to the county board of elections for certification of that need for voting assistance. Application may be made when registering to vote or at any time prior to the close of the voter registration books prior to an election by completing the voter assistance form indicating that the reason for obtaining assistance is permanent or temporary. The county board of elections shall determine whether the applicant requires voting assistance on a permanent or annual basis. The county board of elections shall notify the county clerk of a certification of a need for voting assistance and the county clerk shall enter the appropriate certification on the voter's registration record. The State~~

~~Board of Elections shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance on a permanent or annual basis without completing voter assistance forms at the precinct on the day of an election~~].

(3) ***Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter***[~~A voter who requires assistance in voting may be assisted by a person of his choice, except that the voter's employer, an agent of that employer, or an officer or agent of that voter's union shall not assist the voter. If a voter who requires assistance in voting does not bring someone to the polls to assist him in voting, assistance shall be rendered as follows:~~

~~(a) A voter who has been certified as requiring assistance on a permanent or annual basis may select a person at the polls to assist him in voting or, if the voter does not do so, the two (2) election judges shall assist the voter; and~~

~~(b) A voter who has not been certified as requiring assistance on a permanent or annual basis shall be assisted by the two (2) election judges~~].

(4) ***The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs***[~~Except for those voters who have been certified as requiring assistance on a permanent or annual basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of an inability to read English, or by reason of disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. All persons assisting a voter shall execute the voter assistance form~~].

(5) ***A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct***[~~Upon making and filing with the judges the oath, if required, the voter shall retire to the voting machine or area provided for completing a ballot, with the person who will assist him in voting, and the person providing assistance shall operate the machine or complete the ballot as the voter directs~~].

(6)[~~The precinct election clerk shall swear the person accompanying a voter with a disability or a voter who is unable to read English to operate the voting machine in accordance with the directions of the voter and the person sworn shall enter the voting booth or ballot completion area and the one sworn shall operate the machine or complete the ballot for the voter as the voter directs.~~

~~(7)~~] ***"***Voting booth***"*** or ***"***ballot completion area***" means***[~~ shall mean~~] an area in which a voter casts his vote or completes his ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific reason that requires him to receive assistance.

(7)[~~(8)~~] No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8)[~~(9)~~] In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9)[~~(10)~~] If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10)[~~(11)~~] The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11)[~~(12)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12)[~~(13)~~] The election sheriff shall be responsible for reporting violations of this section.

Section 14. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot ***for a regular or special election*** may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) ***A person shall be ineligible as a write-in candidate for more than one (1) office in a regular or special election.***

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5)[~~(4)~~] The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6)[~~(5)~~] Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

(7)[~~(6)~~] The provisions of this section requiring the filing of a declaration of intent shall not apply to elections for municipal office in cities of the fifth or sixth class, and all write-in votes shall be counted, regardless of whether a declaration was filed.

Section 15. KRS 160.210 is amended to read as follows:

(1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315 and 118.316, the chief state school officer shall fill the new term of office by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts***,***[~~ or~~] a change in territory due to annexation***, or to allow compliance with KRS 117.055(2)***.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population,. the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

Section 16. The provisions of Section 1 of this Act shall be applied prospectively from the effective date of this Act. A voter who has changed political party affiliations on his voting registration record during the period beginning November 12, 1996, and ending at the close of business on the effective date of this Act shall be permitted to vote in the May, 1998 primary election for the political party with which the voter is affiliated on the effective date of this Act. A person who is not registered to vote on the effective date of this Act who completes a voter registration application during the period beginning with the effective date of this Act and ending at the close of business on April 17, 1998, shall be eligible to vote in the primary election to be held on May 26, 1998, if the person has registered as a member of a political party and has remained registered as a member of the same political party in whose primary election he seeks to vote since completing his voter registration application.

Section 17. Whereas the provisions of this Act are necessary to administer the May primary election in an effective and constitutional manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Elections and Constitutional Amendments reported **HB 64** , with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 64, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and which ***polled***~~[cast]~~ at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) A "ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the Secretary of State or the county clerk.

(4) "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.

(5) "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.

(6) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or

electromechanical unit and supplies utilized or relied upon by a voter in casting and recording his votes in an election.

(7) The word "resident" used in reference to a candidate in a state, district, county or city election shall mean actual resident, without regard to the residence of the spouse of the candidate.

Section 2. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ***certification of candidates***[~~ballots are printed~~] for the regular election ***made under KRS 118.215***, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ***certification of candidates***[~~ballots are printed~~] for the regular election, and if that party's nominee was the only candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.

(5) If a vacancy occurs in the nomination of a candidate under the conditions of subsections (3) or (4) of this section after the ***certification of candidates***[~~ballots are printed~~] for the regular election but not later than the second Thursday preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs.

(6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.

(7) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

Section 3. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and*** not later than the last Tuesday in January preceding the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and*** not later than the last Tuesday in January preceding the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 4. KRS 118.212 is amended to read as follows:

(1) If, before the time of certification ***of candidates who will appear on the ballot*** provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in writing, signed and properly notarized that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(2) If, ***after the certification of candidates who will appear on the ballot***[~~before the ballots are printed~~], any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the clerk shall ***ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section***[~~ not cause his name to be printed on the ballot~~].

(3) If, ***after the certification of candidates who will appear on the ballot***[~~before the ballots are printed~~], any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ***ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section***[~~not cause his name to be printed on the ballot~~].

(4) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall officially withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(5) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall officially withdraw or die, the county clerk shall provide a notice to the precinct election officers who shall see that the notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notice required by this subsection and the precinct officers fail to post the notice at the polling place, the precinct officers shall be guilty of a violation subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 5. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. ***Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 6. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which ***polled***[~~cast~~] two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which ***polled***[~~cast~~] two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each

person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The form of the statement shall be prescribed by the State Board of Elections. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5) In case of death, resignation or removal of any such candidate subsequent to nomination and before the ***certification of candidates for the regular election made under KRS 118.215***[~~ballot labels are printed~~], the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the Secretary of State and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

Section 7. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections ***for the offices sought***.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August preceding the regular election ***for the office sought***.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which ***polled***[~~cast~~] two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk ***not earlier than the first Wednesday after the first Monday in November, of the year preceding the year in which the offices will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.

(5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and*** not later than the second Tuesday in August preceding the day

fixed by law for the holding of general elections ***for the offices sought***. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections ***for the offices sought***.

(6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and*** not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.

(7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.

(8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 8. KRS 118.415 is amended to read as follows:

(1) The General Assembly may state the substance of the amendment proposed to the Constitution of Kentucky in the form of a question in a manner calculated to inform the electorate of the substance of the amendment. When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the question calculated to inform the electorate of the substance of the amendment which is prepared by the General Assembly or the Attorney General to be published at least one (1) time in a newspaper of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made not later than the first Tuesday in August preceding the election at which the amendment is to be voted on.

(2) The Attorney General shall, if the General Assembly has not already done so, state the substance of an amendment to the Constitution of Kentucky which has been proposed by the General Assembly in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and, not later than fourteen (14) days preceding the first Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen, shall certify the question to the Secretary of State to be placed on the voting machine.

(3) The Secretary of State, not later than the second Monday after the second Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen ***in a year in which there is not an election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States***, shall certify the substance of the amendment, as stated and certified by the General Assembly or by the Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(4) The votes cast for and against the amendment shall be counted, canvassed, and certified to the Secretary of State in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(5) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

Section 9. KRS 118.551 is amended to read as follows:

As used in KRS 118.561 to 118.651, "political party" means each political party that ***polled***[~~cast~~] ten percent (10%) or more of the vote for Governor in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.

Section 10. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the last Tuesday in January preceding the day fixed by law for holding the primary election ***for the office***. The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary election.

(5) Not later than the third Tuesday in February preceding the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 11. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.

(2) Not later than the second Monday after the filing deadline for the regular election ***in a year in which there is no election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States***, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 12. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the

second Tuesday in January preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the election for the unexpired term will be held and*** not later than the second Tuesday in August preceding the day fixed by law for holding the regular election ***for the unexpired term***. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.

(7) Not later than the second Monday after the filing deadline for the regular election ***in a year in which there is no election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States***, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 13. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) No county clerk shall knowingly cause to be printed on the ballot labels or absentee ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.

(4) If, before the time of certification ***of candidates who will appear on the ballot*** provided for in this chapter, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(5) If, ***after the certification of candidates who will appear on the ballot***[~~before the ballots are printed~~], any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ***ensure that notice is provided to the***

appropriate precincts as provided in subsection (7) of this section[~~not cause his name to be printed on the ballot~~].

(6) If after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(7) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall withdraw pursuant to KRS 118.212 or die, the county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation, subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 14. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election ***for the office sought***. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election ***for the office***. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election ***for nominations for the office***. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election ***for the office***.
2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.
3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.
4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.
5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 15. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than***[~~by at least~~] the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk or the Secretary of State as provided in KRS 83A.047, file[~~ with the county clerk~~] a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk ***or the Secretary of State*** shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk[~~ or the Secretary of State~~] shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or

where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 16. KRS 83A.175 is amended to read as follows:

(1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary election pursuant to KRS 83A.045.

(2) Each candidate shall, ***not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than***[~~by at least~~] the last date prescribed by the election law generally for filing petitions of nomination with the county clerk or the Secretary of State ***as provided in KRS 83A.047***, file[~~ with the county clerk or the Secretary of State~~] a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(3) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk or the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(5) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State, dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(6) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

The Committee Substitute to **HB 64** is as follows:

AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.015 is amended to read as follows:

(1) A "political party" within the meaning of this chapter, is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and ***whose candidate received***[~~which cast~~] at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for.

(2) The word "election" used in reference to a state, district, county or city election, includes the decisions of questions submitted to the qualified voters as well as the choice of officers by them.

(3) A "ballot" or "official ballot" means the voting machine ballot label, ballot cards, paper ballots, an absentee ballot, or a supplemental paper ballot which has been authorized for the use of the voters in any primary, general or special election by the Secretary of State or the county clerk.

(4) "Ballot label" means the cards, papers, booklet, pages or other material on which appear the names of candidates and the questions to be voted on by means of ballot cards or voting machines.

(5) "Ballot card" means a tabulating card on which votes may be recorded by a voter by use of a voting punch device or by marking with a pen or special marking device.

(6) "Voting machine" or "machine" shall include lever machines and, as far as applicable, any electronic or electromechanical unit and supplies utilized or relied upon by a voter in casting and recording his votes in an election.

(7) The word "resident" used in reference to a candidate in a state, district, county or city election shall mean actual resident, without regard to the residence of the spouse of the candidate.

Section 2. KRS 118.105 is amended to read as follows:

(1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary election held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by primary elections as provided in this chapter.

(2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

(3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ***certification of candidates***[~~ballots are printed~~] for the regular election ***made under KRS 118.215***, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the chairman and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary election.

(4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the ***certification of candidates***[~~ballots are printed~~] for the regular election, and if that party's nominee was the only candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.

(5) If a vacancy occurs in the nomination of a candidate under the conditions of subsections (3) or (4) of this section after the ***certification of candidates***[~~ballots are printed~~] for the regular election but not later than the second Thursday preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs.

(6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.

(7) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections.

Section 3. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and*** not later than the last Tuesday in January preceding the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and*** not later than the last Tuesday in January preceding the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 4. KRS 118.212 is amended to read as follows:

(1) If, before the time of certification ***of candidates who will appear on the ballot*** provided in KRS 118.215, any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in writing, signed and properly notarized that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(2) If, ***after the certification of candidates who will appear on the ballot***[~~before the ballots are printed~~], any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the county clerk dies or notifies the clerk, in the manner described in subsection (1) of this section, that he will not accept the nomination

or election, the clerk shall ***ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section***[~~ not cause his name to be printed on the ballot~~].

(3) If, ***after the certification of candidates who will appear on the ballot***[~~before the ballots are printed~~], any candidate whose notification and declaration or certificate or petition of nomination has been filed in the office of the Secretary of State dies or notifies the Secretary of State in the manner described in subsection (1) of this section, that he will not accept the nomination or election, the Secretary of State shall immediately notify the appropriate county clerk, and the clerk shall ***ensure that notice is provided to the appropriate precincts as provided in subsection (5) of this section***[~~not cause his name to be printed on the ballot~~].

(4) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall officially withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(5) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall officially withdraw or die, the county clerk shall provide a notice to the precinct election officers who shall see that the notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notice required by this subsection and the precinct officers fail to post the notice at the polling place, the precinct officers shall be guilty of a violation subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 5. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. ***Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot.*** A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 6. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but ***whose candidate received***[~~which cast~~] two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but ***whose candidate received***[~~which cast~~] two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of President

and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The form of the statement shall be prescribed by the State Board of Elections. Such statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.

(5) In case of death, resignation or removal of any such candidate subsequent to nomination and before the ***certification of candidates for the regular election made under KRS 118.215***~~[ballot labels are printed]~~, the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(6) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the Secretary of State and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

Section 7. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections ***for the offices sought***.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August preceding the regular election ***for the office sought***.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but ***whose candidate received***~~[which cast]~~ two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.

(5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State

or county clerk ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections ***for the offices sought***. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and*** not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections ***for the offices sought***.

(6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and*** not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.

(7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.

(8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 8. KRS 118.415 is amended to read as follows:

(1) The General Assembly may state the substance of the amendment proposed to the Constitution of Kentucky in the form of a question in a manner calculated to inform the electorate of the substance of the amendment. When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the question calculated to inform the electorate of the substance of the amendment which is prepared by the General Assembly or the Attorney General to be published at least one (1) time in a newspaper of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made not later than the first Tuesday in August preceding the election at which the amendment is to be voted on.

(2) The Attorney General shall, if the General Assembly has not already done so, state the substance of an amendment to the Constitution of Kentucky which has been proposed by the General Assembly in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and, not later than fourteen (14) days preceding the first Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen, shall certify the question to the Secretary of State to be placed on the voting machine.

(3) The Secretary of State, not later than the second Monday after the second Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen ***in a year in which there is not an election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States***, shall certify the substance of the amendment, as stated and certified by the General Assembly or by the Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(4) The votes cast for and against the amendment shall be counted, canvassed, and certified to the Secretary of State in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(5) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

Section 9. KRS 118.551 is amended to read as follows:

As used in KRS 118.561 to 118.651, "political party" means each political party ***whose candidates received***~~[that cast]~~ ten percent (10%) or more of the vote for Governor ***and Lieutenant Governor*** in the preceding election, or has a registration equal to ten percent (10%) or more of the total registered voters in the Commonwealth.

Section 10. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the last Tuesday in January preceding the day fixed by law for holding the primary election ***for the office***. The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name;

however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary election.

(5) Not later than the third Tuesday in February preceding the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 11. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.

(2) Not later than the second Monday after the filing deadline for the regular election ***in a year in which there is no election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States***, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 12. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary

next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the second Tuesday in January preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the election for the unexpired term will be held and*** not later than the second Tuesday in August preceding the day fixed by law for holding the regular election ***for the unexpired term***. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.

(7) Not later than the second Monday after the filing deadline for the regular election ***in a year in which there is no election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States***, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 13. KRS 118A.150 is amended to read as follows:

(1) In certification of candidates for judicial office, no reference shall be made to political affiliation.

(2) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination or candidacy papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination or candidacy papers.

(3) No county clerk shall knowingly cause to be printed on the ballot labels or absentee ballots for any election, the name of a candidate for an office of the Court of Justice who has not been certified in the manner specified in this chapter.

(4) If, before the time of certification ***of candidates who will appear on the ballot*** provided for in this chapter, any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination or election, the Secretary of State shall not certify his name.

(5) If, ***after the certification of candidates who will appear on the ballot***[~~before the ballots are printed~~], any candidate whose petition or certificate of nomination or petition for candidacy has been filed, dies or notifies the Secretary of State in the manner described in subsection (4) of this section, that he will not accept the nomination or election, the Secretary

of State shall immediately notify the appropriate county clerk, and the clerk shall ***ensure that notice is provided to the appropriate precincts as provided in subsection (7) of this section***[~~not cause his name to be printed on the ballot~~].

(6) If after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall withdraw or die, neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(7) If, after the ***certification of candidates who will appear on the ballot***[~~ballots are printed~~], any candidate whose name appears ***on the ballot***[~~thereon~~] shall withdraw pursuant to KRS 118.212 or die, the county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation, subject to a fine of not less than ten dollars ($10) nor more than two hundred fifty dollars ($250).

Section 14. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election ***for the office sought***. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election ***for the office***. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the last Tuesday in January before the day fixed by KRS Chapter 118 for holding a primary election ***for nominations for the office***. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and*** not later than the second Tuesday in August before the day fixed by KRS Chapter 118 for holding a regular election ***for the office***.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.

4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.

5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS

Chapters 116 to 121.

6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 15. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, ***not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than***~~[by at least]~~ the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk or the Secretary of State as provided in KRS 83A.047, file~~[with the county clerk]~~ a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk ***or the Secretary of State*** shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk~~[or the Secretary of State]~~ shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 16. KRS 83A.175 is amended to read as follows:

(1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary election pursuant to KRS 83A.045.

(2) Each candidate shall, ***not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than***[~~by at least~~] the last date prescribed by the election law generally for filing petitions of nomination with the county clerk or the Secretary of State ***as provided in KRS 83A.047***, file[~~ with the county clerk or the Secretary of State~~] a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(3) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk or the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(5) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State, dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(6) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

  (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

  (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

The Committee on Education reported **HB 16, HB 67, HB 100,** and **HB 78**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 16, AN ACT relating to high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B, with final orders subject to review by the board.

(3) [~~(a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.~~

~~(b)~~]The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity wrestling, soccer, and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity wrestling, soccer, and football for students who have not successfully completed the eighth grade.

(4)[~~(3)~~] (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.

(c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(5)[~~(4)~~] The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(6)[~~(5)~~] Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment,

litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

HB 67, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school[~~,~~] divided by the actual number of days the school is in session***, after the five (5) days with the lowest attendance have been deducted***;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session***, after the five (5) days with the lowest attendance have been deducted***. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year.

(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year.

(16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board.

Section 2. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

(b) Local disaster which would endanger the health or safety of children; and

(c) Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt***:***

(a) Administrative regulations governing the use of school days, including days missed from the regular school ***calendar***[~~day~~] as a result of local disaster, as defined in subsection (3)(b) of this section***. The regulations shall allow the chief state school officer flexibility to exempt schools or school districts from the regulations when dire circumstances prevail;***[~~,~~] and

(b) Administrative regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451.

[~~(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section. However, for the school years 1994-95 and 1995-96, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional~~

~~development for teachers if the following conditions are met:~~

~~(a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and~~

~~(b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education.~~]

HB 100, AN ACT relating to school administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.730 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.730 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college or completion of a local district alternative certification training program.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, ***school psychologist,*** or school business administrator. The term "administrator" shall also include those assistant, associate, or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

HB 78, AN ACT relating to community education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A state Council for Community Education shall be established for the purpose of advising the commissioner of education and the Department of Education on issues relating to community education programs and making recommendations for the funding of local community education programs.

(2) The council shall have a membership of fifteen (15) persons, appointed by the Governor. Membership may include, but not be limited to, representatives of the following groups:

(a) Civic organizations;

(b) Community-based organizations;

(c) Community education organizations;

(d) Local government;

(e) Local school district administrators;

(f) Parent organizations;

(g) Postsecondary education;

(h) School boards; and

(i) Teachers.

(3) The commissioner of education or the commissioner's designee shall convene the first meeting of the council for the purpose of establishing the bylaws of the council and electing officers to include: chairman, vice chairman, and secretary.

Section 2. KRS 160.156 is amended to read as follows:

(1) The Kentucky Board of Education shall develop a state plan for community education which sets forth the goals and objectives of the program and establishes a system of priorities for targeting available resources on the areas with the greatest need.

(2) The Kentucky Board of Education shall administer a grant program pursuant to KRS 160.155 and 160.157 to provide money to local school districts to:

(a) Support staff to plan and manage programs and services for community education;[~~ and~~]

(b) Support programs that are targeted to the greatest educational needs in the community***; and***

(c) Encourage cooperation among all local school districts in a county.

(3) ***The Kentucky Board of Education shall distribute grant funds to qualified districts on a per capita basis and at a level of one dollar ($1) per capita based on the population of the county or counties served by the respective districts, as determined by the most recent, available census data.*** Districts shall provide a twenty-five ***cents ($0.25) per capita***[~~percent (25%)~~] cash match in order to receive state community education funding.

Section 3. KRS 160.157 is amended to read as follows:

(1) [~~Subject to the availability of funds, ~~]A public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the Kentucky Board of Education in the manner and form prescribed by the Department of Education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting ***locally determined***[~~the~~] needs[~~ of citizens~~];

(c) Establishes ***a council with the power to make district-wide decisions of policy***[~~an advisory council, appointed by the board of education,~~] to assist in conducting community needs assessments and recommending program priorities;

(d) Employs at least one (1) full-time community education director***.***[~~;~~]

(2) Two (2) or more school districts may combine for purposes of qualifying ***for state funds if the local districts identify a district of record for purposes of receiving state community education funds, maintaining records, and filing reports. Two (2) or more districts in the same county that wish to apply for state funds shall submit a joint proposal***[~~as a community school. Any qualified school district or combination of school districts with a total population of five thousand (5,000) or more persons is eligible to receive state funding equal to seventy-five percent (75%) of the state average of the salaries paid to local instructional supervisors. Certification requirements for the position shall be developed by the Department of Education~~].

(3) ***Funds***[~~Funded positions~~] shall be awarded to ***qualifying***[~~qualified~~] districts ***on the basis of county population, except that the minimum allocation for a county shall be set at twenty thousand dollars ($20,000)***[~~in the ratio of district population to state population~~].

(4) Each ***grantee***[~~community school~~] receiving state funds for a community education program ***shall***[~~must~~] submit an annual report to the State Department of Education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of ***state funding***[~~the community school designation~~].

The Committee Substitute to **HB 78** is as follows:

AN ACT relating to community education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A state Council for Community Education shall be established for the purpose of advising the commissioner of education and the Department of Education on issues relating to community education programs and making recommendations for the funding of local community education programs.

(2) The council shall have a membership of fifteen (15) persons, appointed by the Governor. Membership may include,

but not be limited to, representatives of the following groups:

(a) Civic organizations;

(b) Community-based organizations;

(c) Community education organizations;

(d) Local government;

(e) Local school district administrators;

(f) Parent organizations;

(g) Postsecondary education;

(h) School boards; and

(i) Teachers.

(3) The commissioner of education or the commissioner's designee shall convene the first meeting of the council for the purpose of establishing the bylaws of the council and electing officers to include: chairman, vice chairman, and secretary.

Section 2. KRS 160.156 is amended to read as follows:

(1) The Kentucky Board of Education shall develop a state plan for community education which sets forth the goals and objectives of the program and establishes a system of priorities for targeting available resources on the areas with the greatest need.

(2) The Kentucky Board of Education shall administer a grant program pursuant to KRS 160.155 and 160.157 to provide money to local school districts to:

(a) Support staff to plan and manage programs and services for community education;[~~ and~~]

(b) Support programs that are targeted to the greatest educational needs in the community***; and***

(c) Encourage cooperation among all local school districts in a county.

(3) ***The state appropriation shall be at one dollar ($1) per capita as determined by the most recent available census data. Funds shall be distributed by the Kentucky Board of Education through a grant process. No county shall receive less than twenty thousand dollars ($20,000).*** Districts shall provide a twenty-five percent (25%) cash match in order to receive state community education funding.

Section 3. KRS 160.157 is amended to read as follows:

(1) [~~Subject to the availability of funds, ~~]A public school district may receive funding for a community school program if it meets all of the following criteria:

(a) Submits an application for approval by the Kentucky Board of Education in the manner and form prescribed by the Department of Education;

(b) Submits a plan, approved by the local board, which outlines the proposed community education program, including procedures for obtaining the involvement and cooperation of other agencies and groups in identifying and recommending programs for meeting ***locally determined***[~~the~~] needs[~~ of citizens~~];

(c) Establishes ***a council with the power to make district-wide decisions of policy***[~~an advisory council, appointed by the board of education,~~] to assist in conducting community needs assessments and recommending program priorities;

(d) Employs at least one (1) full-time community education director***.***[~~;~~]

(2) Two (2) or more school districts may combine for purposes of qualifying ***for state funds if the local districts identify a district of record for purposes of receiving state community education funds, maintaining records, and filing reports. Two (2) or more districts in the same county that wish to apply for state funds shall submit a joint proposal***[~~as a community school. Any qualified school district or combination of school districts with a total population of five thousand (5,000) or more persons is eligible to receive state funding equal to seventy-five percent (75%) of the state average of the salaries paid to local instructional supervisors. Certification requirements for the position shall be developed by the Department of Education~~].

(3)[~~ Funded positions shall be awarded to qualified districts in the ratio of district population to state population.~~

~~(4)~~] Each ***grantee***[~~community school~~] receiving state funds for a community education program ***shall***[~~must~~] submit an annual report to the State Department of Education. The report shall include an evaluation of the program and a financial statement. Failure to submit the report shall result in the loss of ***state funding***[~~the community school designation~~].

Representative Nunn was removed from the Committee on Counties and Special Districts and appointed to the

Committee on Appropriations and Revenue.

Motions, Petitions and Communications

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Palumbo moved the adoption of the following **Legislative Citation No. 3**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Lyndy Franklin upon being crowned Kentucky's 1997 Junior Miss. Miss Franklin, a student at Sayre High School, is active in numerous extracurricular activities such as the National Honor Society and her school's yearbook, and has been honored many times for her scholastic accomplishments, receiving the Sayre Scholarship for Academic Excellence, the Harvard Book Award and the Heidi Hunt Memorial Award. This talented young lady has also been recognized for her artistic abilities as the 1996 Dancer of the Year and the 1996 Miss Dance of Kentucky. Inasmuch as Lyndy Franklin has demonstrated poise, grace and talent which are both extraordinary and distinctive, this distinguished body is pleased to join with Representative Ruth Ann Palumbo in congratulating her on her achievements and in extending to her best wishes for continued success in the future. **Legislative Citation No. 3** was adopted without objection.

Representative Marzian moved the adoption of the following **Legislative Citation No. 2**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds Representative Eleanor Jordan our outstanding colleague, a second generation African American female politician who was selected for well-deserved inclusion in a new and important book edited by Eugenia Potter, Kentucky Women: Two Centuries of Indomitable Spirit and Vision. The members of this honorable body are pleased on this occasion to join with Representative Mary Lou Marzian in paying tribute to Representative Jordan for those valuable contributions she has made as a female leader in her field and for serving as an exemplary role model for women in this great Commonwealth. The members further join to salute her for the eloquent support she has lent to legislation that deeply affects the lives of Kentucky's women and children and express deep gratitude to her on this occasion for setting a high standard of excellence for others to follow. **Legislative Citation No. 2** was adopted without objection. A roll call vote to co-sponsor **Legislative Citation No. 2** was adopted (See Co-Sponsor roll calls in Appendix E).

Representative Riner moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 13, by Representative Riner: A RESOLUTION commending Legislative Research Commission staffers Greg Freedman, Judy Fritz, and Jamie Griffin.

Representative Riner moved the adoption of the following :

HR 13, A RESOLUTION commending Legislative Research Commission staffers Greg Freedman, Judy Fritz, and Jamie Griffin.

WHEREAS, these three staffers have complied with Legislative Research Commission policy in reporting sexual harassment and unprofessional conduct; and

WHEREAS, these three staffers have stood firm in their belief that the integrity of this institution demanded that they report unethical violations and called for an independent internal investigation of the Legislative Research Commission; and

WHEREAS, it is the desire of this honorable body to show the same compassion to these three persons that they have shown for the integrity of this institution in order that all Legislative Research Commission employees might follow their example in reporting sexual harassment and other conduct that diminishes the stature of the General Assembly;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is proud to commend Legislative Research Commission staffers Greg Freedman, Judy Fritz, and Jamie Griffin for their principled stand in reporting sexual harassment as well as their honesty, integrity, and courage born of a true sense of duty to the General Assembly of the Commonwealth of Kentucky.

Section 2. This honorable body urges the Legislative Research Commission at its January meeting to grant the staffers' request for an impartial and independent internal investigation of the Legislative Research Commission without delay and that is open to the public.

HR 13 was adopted by a vote of Yeas 78, Nays 0 (See Jan. 7, 1998 roll call on **HR 13** - Appendix). A roll call vote to co-sponsor **HR 13** was adopted by a vote of Yeas 78, Nays 0 (See Co-Sponsor roll calls in Appendix E).

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 74** and **HB 27**. Agreed. Representative Stumbo moved that the rules be suspended for introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 171, by Representative Brown: AN ACT relating to radioactive waste.

HB 172, by Representative Brown: AN ACT relating to a groundwater monitoring network.

HB 173, by Representatives Geveden and Bowling: AN ACT relating to campaign finance reporting requirements.

HB 174, by Representative Geveden: AN ACT relating to domestic violence.

HB 175, by Representatives D. Graham, Thomas, Lovell, and Murgatroyd: AN ACT relating to revenue and taxation.

HB 176, by Representatives D. Graham and Thomas: AN ACT relating to aquaculture.

HB 177, by Representative Bowling: AN ACT relating to civil procedure.

HB 178, by Representative Heleringer: AN ACT relating to the mentally retarded.

HB 179, by Representative Heleringer: AN ACT relating to motor vehicles.

HB 180, by Representatives Coleman, Johns, Nunn and Mason: AN ACT relating to health care.

HB 181, by Representative Brown: AN ACT relating to civil actions.

HB 182, by Representative Burch: AN ACT relating to the certification of denturists.

HB 183, by Representative P. Clark: AN ACT relating to income tax.

HB 184, by Representative P. Clark: AN ACT relating to income taxation.

HB 185, by Representatives Lee and Moberly: AN ACT relating to student activities.

HB 186, by Representative Burch: AN ACT relating to the pari-mutuel tax.

HB 187, by Representative Burch: AN ACT relating to nursing.

HB 188, by Representative Burch: AN ACT relating to child abuse.

HB 189, by Representative Marzian: AN ACT relating to public health.

HB 190, by Representative Marzian: AN ACT relating to compulsory school attendance.

HB 191, by Representatives Marzian and Johns: AN ACT relating to a medical registry for traumatic brain and spinal cord injuries.

HB 192, by Representative Ballard: AN ACT relating to traffic safety.

HCR 7, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of LaVerne M. Waldrop to the Governor's Postsecondary Education Nominating Committee.

HCR 8, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Lee T. Todd, Jr. to the Council on Postsecondary Education.

HCR 9, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Linda Waggener to the Long-term Policy Research Center Board.

HCR 10, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Dr. Penny M. Miller to the Kentucky Long-Term Policy Research Center Board.

HCR 11, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Jennifer Jones to the Governor's Postsecondary Education Nominating Committee.

HCR 12, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Walter A. Baker to the Council on Postsecondary Education.

The following members requested that their names be added as co-sponsors to Bills under previously rules suspended: **HB 1**, Representatives Johns, Weaver, Jordan, Marzian, Horlander, Moberly, Lee, Haydon, Kerr, Nunn, Sims, Bratcher, Brandstetter, Long, DeWeese, Richards, Callahan, Murgatroyd, L. Clark, Yonts, Gooch, Anderson, Hoffman, Gray, Damron, Riner, Crenshaw, Palumbo, Clarke, Simpson, D. Butler, J. Arnold, Reinhardt, Wayne, Colter, Walton, McKee, Marcotte; **HB 2**, Representative Colter; **HB 4**, Representative Marzian; **HB 7**, Representative Siler; **HB 11**, Representatives Colter and Napier; **HB 13**, Representatives Napier and Treesh; **HB 16**, Representatives Bratcher and Colter; **HB 18**, Representative Colter; **HB 23**, Representative Wilkey; **HB 24**, Representative Colter; **HB 26**, Representative Treesh; **HB 45**, Representative D. Graham; **HB 58**, Representative J. Adams; **HB 67**, Representatives L. Clark and Colter; **HB 73**, Representative Callahan; **HB 74**, Representative Hoffman; **HB 85**, Representatives R. Adams and Treesh; **HB 93**, Representatives Marzian and Crimm; **HB 101**, Representative D. Graham; **HB 130**, Representatives Nunn and Marzian, Jordan; **HB 159**, Representatives Marzian, Jordan and Nunn; **HB 161**, Representatives Jordan, Marzian and Nunn.

Announcements

The following meetings were canceled:

Labor and Industry, January 8, 1998; Banking and Insurance, January 8, 1998; Agriculture and Small Business, January 8, 1998; Cities, January 8, 1998.

The following meetings were announced:

All future Banking and Insurance meetings will convene at 9:00 a.m. instead of 8:00 a.m.; Personal Service Contract Review Subcommittee, January 13, 1998, 10:00 a.m.; Judiciary, January 8, 1998, 12:15.; Counties and Special Districts, January 8, 1998, upon adjournment.; Transportation, January 8, 1998, 10:00 a.m.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 8, 1998.

On the roll call the vote was **Yeas 81**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Johns, Kerr, Lee, Lindsay, Long, Lovell, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Treesh, Turner, Vincent, Wayne, Wilkey, Yonts, Zimmerman. **Nays 2**--Crall, Stewart.

The motion to adjourn was adopted.

THURSDAY, JANUARY 8, 1998

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. John Callaway, Presbytery of Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins and Zimmerman.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 7, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 193, by Representative D. Butler: AN ACT relating to truancy.

HB 194, by Representative D. Butler: AN ACT relating to electronic records.

HB 195, by Representative Stacy: AN ACT relating to off-road vehicles.

HB 196, by Representative Stacy: AN ACT relating to the granting of exemptions from sport hunting and sport fishing licenses.

HB 197, by Representative Long: AN ACT relating to campaign finance registration and disclosure requirements.

HB 198, by Representative Long: AN ACT relating to property taxes.

HB 199, by Representative Long: AN ACT relating to property taxes.

HB 200, by Representative Long: AN ACT relating to consumer protection.

HB 201, by Representative Long: AN ACT relating to joint sewer agencies.

HB 202, by Representative Long: AN ACT relating to sanitation districts.

HB 203, by Representative Crimm: AN ACT relating to an operator's license.

HB 204, by Representative L. Clark: AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

HB 205, by Representative L. Clark: AN ACT relating to reorganization.

HB 206, by Representative L. Clark: AN ACT relating to economic development.

HB 207, by Representatives Ford, Scott, Turner, Hoover, and Miniard: AN ACT relating to the pledge of allegiance to the state flag of the Commonwealth of Kentucky.

HB 208, by Representative Ford: AN ACT relating to voting.

HB 209, by Representative Napier: AN ACT relating to the taxation of motor vehicles.

HCR 14, by Representatives Stacy and J. Arnold: A CONCURRENT RESOLUTION creating the Tobacco Program Issues Group.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 176**

Appropriations and Revenue: **HB 169, HB 170, HB 175, HB 183, HB 184**

Counties and Special Districts: **HB 168**

Education: **HB 185, HB 190, HCR 7, HCR 8, HCR 11, HCR 12**

Elections and Constitutional Amendments: **HB 164, HB 167, HB 173**

Health and Welfare: **HB 178, HB 180, HB 182, HB 187, HB 188, HB 189, HB 191**

Judiciary: **HB 165, HB 166, HB 174, HB 177, HB 181**

Licensing and Occupations: **HB 186**

Natural Resources and Environmental Protection: **HB 171, HB 172**

State Government: **HCR 9, HCR 10**

Transportation: **HB 179, HB 192**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HJR 2, HCR 3, HB 120, HB 132, HB 154**

Report of Committees

The Committee on Judiciary reported **HB 27** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 27, AN ACT relating to capital punishment and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.220 is amended to read as follows:

(1) (a) Except as provided in paragraph (b) of this subsection, every death sentence shall be executed by continuous intravenous injection of a substance or combination of substances sufficient to cause death. The lethal injection shall continue until the prisoner is dead.

(b) Prisoners who receive a death sentence prior to the effective date of this Act shall choose the method of execution described in paragraph (a) of this subsection or the method of execution known as electrocution, which shall consist of passing through the prisoner's body a current of electricity of sufficient intensity to cause death as quickly as possible. The application of the current shall continue until the prisoner is dead. If the prisoner refuses to make a choice at least twenty (20) days before the scheduled execution, the method shall be by lethal injection[~~Every death sentence shall be executed by causing to pass through the body of the condemned a current of electricity of sufficient intensity to cause death as quickly as possible. The application of the current shall be continued until the condemned is dead~~].

(2) All executions of the death penalty by electrocution ***or lethal injection*** shall take place within the ***confines***[~~walls~~] of the state penal institution designated by the Department of Corrections, and in an enclosure that will exclude public view thereof.

Section 2. KRS 431.240 is amended to read as follows:

(1) Unless the execution is stayed ***for any cause***[~~by due process of law or under authority of subsection (2) of this section~~], the warden of the ***institution***[~~penitentiary~~] or his deputy shall proceed, on the day[~~, and at the place~~] named in the judgment of conviction, ***a governor's warrant, or an order of the court,*** to cause the condemned person to be ***executed***[~~electrocuted~~]. The execution shall take place ***at a time designated by the warden of the institution where the execution is to take place***[~~before sunrise~~] on the day designated in the judgment ***of conviction, the governor's warrant, or an order of the court***.

(2) If the condemned person is insane or pregnant with child on the day designated for the execution, the execution shall be suspended until the condemned is restored to sanity or is delivered of child. The execution shall then take place under the warrant of the Governor and at the time designated by him, unless stayed by due process of law. If execution is suspended on the ground of insanity, the commissioner of the Department of Corrections may transfer the condemned person to the state forensic psychiatric facility operated by the Department of Corrections until the time he is restored to sanity. Any administrative hearings authorized under authority of this section shall be conducted in accordance with KRS Chapter 13B.

(3) If the condemned person escapes from custody and is recaptured after the expiration of the date fixed for the execution, the Governor, upon receiving written notice of the recapture from the warden of the ***institution***[~~penitentiary~~], shall send his warrant of execution to the warden by special messenger and shall name therein the day of execution. The warden shall then proceed to the execution thereof according to the provisions of KRS 431.215 to 431.270.

(4) When a judgment of death has not been executed on the day appointed therefor by the court, from any cause, the Governor, by a warrant under his hand and the seal of the Commonwealth, shall fix the day of the execution, which warrant shall be obeyed by the warden of the ***institution***[~~penitentiary~~].

Section 3. KRS 431.250 is amended to read as follows:

The following persons, and no others, may attend an execution: The ***executioner***[~~electrician~~] and the warden of the ***institution***[~~penitentiary~~] and his deputy or deputies and guards; the sheriff of the county in which the condemned was convicted; the commissioner of the Department of Corrections and representatives of the Department of Corrections designated by him; the physician and chaplain of the ***institution***[~~penitentiary~~]; a clergyman and three (3) other persons selected by the condemned; ***three (3) members of the victim's family designated by the commissioner from among the victim's spouse, adult children, parents, siblings, and grandparents; and eight (8)***[~~nine (9)~~] representatives of the news media as follows: [~~one (1) representative from United Press International Wire Service,~~]one (1) representative from Associated Press Wire Service, one (1) representative from Kentucky Network, Inc., three (3) representatives for radio and television media within the state, and three (3) representatives for newspapers within the state. Use of audiovisual equipment by the representatives is prohibited during the execution. The Department of Corrections shall issue administrative regulations which govern media representation during the execution.

SECTION 4. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

If a court holds Section 1 of this Act unconstitutional, the prisoner shall be executed in the manner provided by Section 1 of this Act as that statute read before the effective date of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

This Act shall apply retroactively to all prisoners sentenced to death before the effective date of this Act.

Section 6. Whereas there are many condemned prisoners awaiting execution, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Transportation reported **HB 74** , with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 74, AN ACT relating to the taxation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.485 is amended to read as follows:

(1) ***(a) The registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator at the average trade-in value determined from a standard manual prescribed by the Revenue Cabinet for valuing motor vehicles for assessment unless the registrant appears before the property valuation administrator to assess the vehicle.***

(b) The registration of a[~~ motor vehicle,~~] recreational vehicle[~~,~~] or mobile home with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the[~~ motor vehicle,~~] recreational vehicle[~~,~~] or mobile home to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the Revenue Cabinet for valuing[~~ motor vehicles,~~] recreational vehicles[~~,~~] or mobile homes for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of ***the***[~~such~~] vehicle is required is prima facie evidence of ownership on January 1.

(3) This section does not apply to motor vehicles, recreational vehicles, and mobile homes owned and operated by public service companies, common carriers***,*** or agencies of the state and federal governments.

Section 2. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. ***A***[~~No~~] penalty or interest shall ***not*** accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485[~~(3)~~] but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(9) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 3. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year***,*** if[~~,~~] the same model and make is being offered for sale by local dealers;

(2) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(6) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(7) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(8) ***"Trade-in value" means the value of a used motor vehicle as determined by the Revenue Cabinet through use of an automotive reference manual prescribed by the Revenue Cabinet;***

(9) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(10) "Wrecked new motor vehicle" means any new motor vehicle damaged by any cause, including but not limited to, damage caused by collision, fire, flood, wind, or vandalism that results in repairs or repair estimates that exceed

three hundred dollars ($300);

(11)[~~(9)~~] [~~Except as provided in subsection (10) of this section,~~]"Retail price" ***of motor vehicles*** shall be determined as follows:

(a) ***Except as provided in paragraph (b) of this subsection,*** for new motor vehicles, "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

(b) ***For wrecked new motor vehicles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value;***

(c) For dealer demonstrator motor vehicles and previous model year vehicles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value;

(d) For U-Drive-It motor vehicles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value, if a holder of a U-Drive-It permit transfers a vehicle that the holder has registered as a U-Drive-It within one hundred eighty (180) days of the registration, or if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It. For U-Drive-It motor vehicles that have exceeded the one hundred eighty (180) day or five thousand (5,000) mile limits established in this paragraph, "retail price" shall be determined under paragraph (h) of this subsection;

(e) For used motor vehicles ***previously registered in another state or country by the individual offering the motor vehicle for registration for the first time in this state and*** whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the ***average trade-in*** value given in ***the***[~~such~~] reference manual;

(f)[~~(c)~~] For the older used motor vehicles ***previously registered in another state or country by the individual offering the motor vehicle for registration for the first time in this state and*** whose values no longer appear in the automotive reference manual, "retail price" shall be ***two hundred dollars ($200)***[~~ determined as follows:~~

~~Number of Years Removed From Manual~~	~~Retail Price~~
~~1~~	~~75% of value of same make vehicle last appearing in manual~~
~~2~~	~~50% of value of same make vehicle last appearing in manual~~
~~3~~	~~25% of value of same make vehicle last appearing in manual~~
~~All Others~~	~~10% of value of same make vehicle last appearing in manual~~];

(g) For motor vehicles previously registered in another state or country being offered for first time registration in this state because of a transfer of ownership, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value;

(h)[~~(d)~~] ***For used motor vehicles previously registered in this state that are sold in this state "retail price" means the total consideration given at the time of purchase or at a later date, including all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. Total consideration given shall***

not include:

1. Any amount allowed as a trade-in allowance by the seller, if the amount allowed is disclosed in the notarized affidavit;

2. Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

3. Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

4. Any item not considered to be equipment or accessories.

If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the Revenue Cabinet through the use of the automotive reference manual prescribed by the Revenue Cabinet; and

(i) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the Revenue Cabinet[~~In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.~~

~~(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, then the "retail price" of the vehicle shall be the same as the retail price determined in subsection (9)(b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of paragraph (d) of this subsection shall not apply.~~

~~(f) For dealer demonstrator motor vehicles and previous model year vehicles, "retail price" shall be eighty-five percent (85%) of the retail price as determined in paragraph (a) of this subsection or the actual sales price, exclusive of any trade-in allowance, whichever is greater. In no case shall the Retail price determined under this paragraph exceed the retail price determined in paragraph (a) of this subsection or be less than the retail price determined under paragraph (b) of this subsection.~~

~~(10) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind, or vandalism. The retail price of a wrecked motor vehicle shall be the retail price as determined under subsection (9) of this section minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk. The estimates of repair and the wrecked condition of the vehicle shall be physically verified by a certified inspector as provided in KRS 186A.115. The fees imposed by KRS 186A.115 shall apply to verification services provided by a certified inspector~~].

Section 4. KRS 138.460 is amended to read as follows:

(1) [~~On and after July 1, 1990,~~]A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of ***new*** trucks of gross weight in excess of ten thousand (10,000) pounds, the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. ***The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of Section 3 of this Act.*** The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) ***A***[~~No~~] county clerk or other officer shall ***not*** register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. ***A***[~~No~~] credit shall ***not*** be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical

taxes paid in this state.

(6) ***A***[~~No~~] county clerk or other officer shall ***not*** register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a[~~ certified or photostat copy of the~~] manufacturer's price label[~~ for passenger cars~~] or ***other documentation attesting to the manufacturer's suggested retail price.***[~~ A certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and~~]

If the information required under this subsection is not available from the manufacturer, the Revenue Cabinet may require a notarized affidavit attesting to the purchase price of the vehicle. The clerk shall attach the ***documentation***[~~certified or photostat copy~~] to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450[~~(9) and (10)~~],[~~ in no case shall~~] the tax ***shall not*** be less than ***twelve dollars ($12)***[~~five dollars ($5)~~] upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. ***A***[~~No~~] person shall ***not*** be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. ***A***[~~No~~] person shall ***not*** be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 5. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the cabinet or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) ***(a) For a first offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than one (1) year nor more than five (5) years and shall be fined one thousand dollars ($1000). For a second and each***

subsequent offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than five (5) years nor more than ten (10) years and shall be fined five thousand dollars ($5000).

(b) For a first offense, any dealer who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than one (1) year nor more than five (5) years and shall be fined one thousand dollars ($1000). For a second offense, any dealer who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall have his dealer's license revoked for life and shall be imprisoned for not less than five (5) years nor more than ten (10) years and shall be fined five thousand dollars ($5000).

(c) Any person who violates any of the ***other*** provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) ***and***~~[.]~~ if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 6. KRS 186.190 is amended to read as follows:

(1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.

(2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the ***title, and a notarized affidavit if required and available under Section 3 of this Act attesting to the total and actual consideration paid or to be paid for the motor vehicle***~~[current registration receipt issued on the motor vehicle and the bill of sale]~~. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A.

(3) Upon delivery of the ***title, and a notarized affidavit if required and available under Section 3 of this Act attesting to the total and actual consideration paid or to be paid for the motor vehicle***~~[registration receipt and the bill of sale]~~ to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1), which shall be remitted to the Transportation Cabinet. ***If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before*** the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of three dollars ($3) for his services.

(4) When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the plate and receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar ($1) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information required by the Department of

Vehicle Regulation.

Section 7. KRS 186.232 is amended to read as follows:

(1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

(2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.

(3) If a notarized affidavit is required and available under Section 3 of this Act, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the Revenue Cabinet to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.

Section 8. KRS 190.037 is amended to read as follows:

Where application for any license provided for ***in this chapter***[~~herein~~] has been made, a temporary permit may be granted to the applicant to engage in the business for which the license is sought. The temporary permit shall be valid until[~~ such time as~~] the application is approved or denied, but in no event for a period longer than ninety (90) days. KRS 190.040***(4)***[~~(3)~~] shall not apply to a temporary permit.

Section 9. KRS 190.040 is amended to read as follows:

(1) A license shall be revoked for life if a dealer is convicted by a court of competent jurisdiction for a second offense of giving a false statement as to the total and actual consideration paid for a motor vehicle.

(2)[~~(1)~~] A license may be denied, suspended, or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the Revenue Cabinet;

(d) Willful failure to comply with any provision of this chapter or any administrative regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction, or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention, or concealment through subterfuge or device of any of the material particulars or the nature of them required to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of goods;

(l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of the motor vehicle manufacturer or factory branch, who has induced, coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, vehicles, parts, accessories, or any other commodities that shall not have been ordered by the dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with a manufacturer, factory branch, or representative, or to do any other act unfair to the dealer, by threatening to cancel any franchise existing between a manufacturer, factory branch, or representative and the dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative of a motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of the dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a distributor or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. This section shall not prevent any license holder from selling any motor vehicle to any of its employees;

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of the new motor vehicle being advertised.

(3)[~~(2)~~] The licensor may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for denial. Upon request by the applicant whose license has been denied, the licensor shall set the time and place of hearing a review of denial, to be conducted in accordance with KRS Chapter 13B.

(4)[~~(3)~~] A license shall not be suspended or revoked except after a hearing conducted in accordance with KRS Chapter 13B.

(5)[~~(4)~~] The commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(6)[~~(5)~~] If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to the party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if the licensee approved of or had knowledge of the acts and after approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from the acts.

(7)[~~(6)~~] Any licensee or other person in interest who is dissatisfied with a final order of the commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS Chapter 13B.

Section 10. KRS 190.990 is amended to read as follows:

(1) ***Except as provided in subsection (5) of this section,*** any person who violates or causes, aids or abets any violation of any provision of KRS 190.010 to 190.080 or any order, rule or regulation lawfully issued pursuant to authority granted by KRS 190.010 to 190.080 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or imprisoned for not more than thirty (30) days, or both. Any person who violates paragraphs (l), (m) or (n) of subsection ***(2)***[~~(1)~~] of KRS 190.040 may also be subject to a suspension or revocation sentence of not more than a year effective only in the territory formerly served by the unfairly canceled dealer, except that in a metropolitan area serviced by several dealers handling the same motor vehicle, the suspension or revocation order shall not be applicable to the remaining dealers.

(2) Any person who willfully and intentionally violates any provision of KRS 190.090 to 190.140 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500).

(3) A willful violation of KRS 190.100 or 190.110 by any person shall bar his recovery of any finance charge, delinquency***,*** or collection charge on the retail installment contract involved.

(4) Any person who willfully violates KRS 190.270 to 190.320 shall be subject to a penalty of five thousand dollars ($5,000) per violation, which may be recovered on behalf of the Commonwealth by the Attorney General.

(5) For a first offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than one (1) year nor more than five (5) years and shall be fined one thousand dollars ($1000). For a second offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall have his dealer's license revoked for life and shall be imprisoned for not less than five (5) years nor more than ten (10) years and shall be fined five thousand dollars ($5000).

Section 11. The amendments contained in Section 1 of this Act shall apply to motor vehicles assessed on or after January 1, 1999. The amendments contained in Sections 2 through 10 of this Act shall apply to motor vehicles sold after July 31, 1998.

The Committee Substitute to **HB 74** is as follows:

HB 74, AN ACT relating to the taxation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.485 is amended to read as follows:

(1) ***(a) The registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator at the average trade-in value determined from a standard manual prescribed by the Revenue Cabinet for valuing motor vehicles for assessment unless the registrant appears before the property valuation administrator to assess the vehicle;***

(b) The registration of a[~~ motor vehicle,~~] recreational vehicle[~~,~~] or mobile home with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the[~~ motor vehicle,~~] recreational vehicle[~~,~~] or mobile home to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the Revenue Cabinet for valuing[~~ motor vehicles,~~]

recreational vehicles[~~,~~] or mobile homes for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of ***the***[~~such~~] vehicle is required is prima facie evidence of ownership on January 1.

(3) This section does not apply to motor vehicles, recreational vehicles, and mobile homes owned and operated by public service companies, common carriers***,*** or agencies of the state and federal governments.

Section 2. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. ***A***[~~No~~] penalty or interest shall ***not*** accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485[~~(3)~~] but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(9) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 3. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year***,*** if[~~,~~] the same model and make is being offered for sale by local dealers;

(2) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;

(4) ***"Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;***

(5) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(6)[~~(5)~~] "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(7)[~~(6)~~] "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;

(8)[~~(7)~~] "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;

(9)[~~(8)~~] ***"Trade-in value" means the value of a used motor vehicle as determined by the Revenue Cabinet through use of an automotive reference manual prescribed by the Revenue Cabinet;***

(10) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;

(11) "Wrecked new motor vehicle" means any new motor vehicle damaged by any cause, including but not limited to, damage caused by collision, fire, flood, wind, or vandalism that results in repairs or repair estimates that exceed three hundred dollars ($300);

(12)[~~(9)~~] [~~Except as provided in subsection (10) of this section,~~]"Retail price" ***of motor vehicles*** shall be determined as follows:

(a) ***Except as provided in paragraph (b) of this subsection,*** for new motor vehicles, "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges. "Retail price" shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities;

(b) ***For wrecked new motor vehicles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value;***

(c) For dealer demonstrator motor vehicles and previous model year vehicles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value;

(d) For U-Drive-It motor vehicles, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value, if a holder of a U-Drive-It permit transfers a vehicle that the holder has registered as a U-Drive-It within one hundred eighty (180) days of the registration, or if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It. For U-Drive-It motor vehicles that have exceeded the one hundred eighty (180) day or five thousand (5,000) mile limits established in this paragraph, "retail price" shall be determined under paragraph (i) of this subsection;

(e) For historic motor vehicles, "retail price" shall be one hundred dollars ($100);

(f) For used motor vehicles ***previously registered in another state or country by the individual offering the motor vehicle for registration for the first time in this state and*** whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the ***average trade-in*** value given in ***the***[~~such~~] reference manual;

(g)[~~(c)~~]For the older used motor vehicles ***previously registered in another state or country by the individual offering the motor vehicle for registration for the first time in this state and*** whose values no longer appear in the automotive reference manual, "retail price" shall be ***two hundred dollars ($200)***[~~ determined as follows:~~

~~Number of Years Removed From Manual~~	~~Retail Price~~
~~1~~	~~75% of value of same make vehicle last appearing in manual~~
~~2~~	~~50% of value of same make vehicle last appearing in manual~~

~~3~~	~~25% of value of same make vehicle last appearing in manual~~
~~All Others~~	~~10% of value of same make vehicle last appearing in manual~~];

(h) For motor vehicles previously registered in another state or country being offered for first time registration in this state because of a transfer of ownership, "retail price" shall be the total consideration given at the time of purchase or at a later date, including any trade-in value;

(i)[~~(d)~~] ***For used motor vehicles previously registered in this state that are sold in this state "retail price" means the total consideration given at the time of purchase or at a later date, including all equipment and accessories, standard and optional, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. Total consideration given shall not include:***

1. Any amount allowed as a trade-in allowance by the seller, if the amount allowed is disclosed in the notarized affidavit;

2. Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

3. Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

4. Any item not considered to be equipment or accessories.

If a notarized affidavit signed by both the buyer and the seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the Revenue Cabinet through the use of the automotive reference manual prescribed by the Revenue Cabinet; and

(j) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the average trade-in value given in the automotive reference manual prescribed by the Revenue Cabinet[~~In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.~~

~~(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, then the "retail price" of the vehicle shall be the same as the retail price determined in subsection (9)(b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of paragraph (d) of this subsection shall not apply.~~

~~(f) For dealer demonstrator motor vehicles and previous model year vehicles, "retail price" shall be eighty-five percent (85%) of the retail price as determined in paragraph (a) of this subsection or the actual sales price, exclusive of any trade-in allowance, whichever is greater. In no case shall the Retail price determined under this paragraph exceed the retail price determined in paragraph (a) of this subsection or be less than the retail price determined under paragraph (b) of this subsection.~~

~~(10) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind, or vandalism. The retail price of a wrecked motor vehicle shall be the retail price as determined under subsection (9) of this section minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk. The estimates of repair and the wrecked condition of the vehicle shall be physically verified by a certified inspector as provided in KRS 186A.115. The fees imposed by KRS 186A.115 shall apply to verification services provided by a certified inspector~~].

Section 4. KRS 138.460 is amended to read as follows:

(1) [~~On and after July 1, 1990,~~]A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of ***new*** trucks of gross weight in excess of ten thousand (10,000) pounds, the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. ***The cabinet shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of Section 3 of this Act.*** The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) ***A***~~[No]~~ county clerk or other officer shall ***not*** register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. ***A***~~[No]~~ credit shall ***not*** be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) ***A***~~[No]~~ county clerk or other officer shall ***not*** register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a~~[certified or photostat copy of the]~~ manufacturer's price label~~[for passenger cars]~~ or ***other documentation attesting to the manufacturer's suggested retail price.***~~[A certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and]~~

If the information required under this subsection is not available from the manufacturer, the Revenue Cabinet may require a notarized affidavit attesting to the purchase price of the vehicle. The clerk shall attach the ***documentation***~~[certified or photostat copy]~~ to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450~~[(9) and (10)]~~,~~[in no case shall]~~ the tax ***shall not*** be less than ***twelve dollars ($12)***~~[five dollars ($5)]~~ upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. ***A***~~[No]~~ person shall ***not*** be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. ***A***~~[No]~~ person shall ***not*** be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

Section 5. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146, or 138.195 for which a specific penalty is not provided shall be guilty of a violation for the first offense; for each such subsequent offense, he shall be guilty of a Class A misdemeanor. These penalties shall be in addition to the civil penalties provided by KRS 138.165, 138.185, and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be guilty of a violation; for each subsequent offense, he shall be guilty of a Class B misdemeanor. These penalties shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder shall be guilty of a Class A misdemeanor. This penalty shall be in addition to any civil penalty provided by KRS 138.165, 138.185, and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation, or sale of cigarettes, and presents any such false entry to the cabinet or any of its agents with the intent to avoid any tax

imposed by KRS 138.130 to 138.205, shall be guilty of a Class D felony.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a Class D felony.

(6) Any person who sells, offers to sell, or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a Class D felony.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds. Embezzlement of state funds, for the first offense, shall be a Class A misdemeanor, and for the second offense, shall be a Class D felony.

(8) Any person who violates any of the provisions of KRS 138.300 shall be guilty of a Class A misdemeanor. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be guilty of a Class A misdemeanor. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) ***(a) For a first offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than one (1) year nor more than five (5) years and shall be fined one thousand dollars ($1000). For a second and each subsequent offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than five (5) years nor more than ten (10) years and shall be fined five thousand dollars ($5000).***

(b) Any person who violates any of the ***other*** provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000) ***and***[~~,~~] if the offender is an individual, he shall be guilty of a Class A misdemeanor.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be guilty of a Class B misdemeanor.

(12) If any offender under the provisions of subsections (1) to (9), (11) or (16) of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a Class A misdemeanor.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a Class A misdemeanor.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be guilty of a Class D felony.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 6. KRS 186.190 is amended to read as follows:

(1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.

(2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the ***title, and a notarized affidavit if required and available under Section 3 of this Act attesting to the total and actual consideration paid or to be paid for the motor vehicle***[~~current registration receipt issued on the motor vehicle and the bill of sale~~]. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A.

(3) Upon delivery of the ***title, and a notarized affidavit if required and available under Section 3 of this Act attesting to the total and actual consideration paid or to be paid for the motor vehicle***[~~registration receipt and the bill of sale~~] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1), which shall be remitted to the Transportation Cabinet. ***If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before*** the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of three dollars ($3) for his services.

(4) When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk

of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the plate and receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar ($1) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

Section 7. KRS 186.232 is amended to read as follows:

(1) The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

(2) The county clerk shall not transfer the registration of any motor vehicle unless the transferee presents proof of insurance in compliance with KRS 304.39-080 and KRS 186.190.

(3) If a notarized affidavit is required and available under Section 3 of this Act, the county clerk shall not transfer the registration of a motor vehicle unless the notarized affidavit attesting to the total and actual consideration paid or to be paid for the motor vehicle is presented to the clerk at the time of the transfer. If a notarized affidavit is required but is not available, the county clerk shall contact the Revenue Cabinet to determine the "retail price" of the vehicle and any taxes due prior to transferring the vehicle.

Section 8. KRS 190.990 is amended to read as follows:

(1) ***Except as provided in subsection (5) of this section,*** any person who violates or causes, aids or abets any violation of any provision of KRS 190.010 to 190.080 or any order, rule or regulation lawfully issued pursuant to authority granted by KRS 190.010 to 190.080 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or imprisoned for not more than thirty (30) days, or both. Any person who violates paragraphs (l), (m) or (n) of subsection (1) of KRS 190.040 may also be subject to a suspension or revocation sentence of not more than a year effective only in the territory formerly served by the unfairly canceled dealer, except that in a metropolitan area serviced by several dealers handling the same motor vehicle, the suspension or revocation order shall not be applicable to the remaining dealers.

(2) Any person who willfully and intentionally violates any provision of KRS 190.090 to 190.140 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500).

(3) A willful violation of KRS 190.100 or 190.110 by any person shall bar his recovery of any finance charge, delinquency, or collection charge on the retail installment contract involved.

(4) Any person who willfully violates KRS 190.270 to 190.320 shall be subject to a penalty of five thousand dollars ($5,000) per violation, which may be recovered on behalf of the Commonwealth by the Attorney General.

(5) For a first offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than one (1) year nor more than five (5) years and shall be fined one thousand dollars ($1000). For a second and each subsequent offense, any person who willfully and fraudulently gives a false statement as to the total and actual consideration paid for a motor vehicle under Section 3 of this Act shall be imprisoned for not less than five (5) years nor more than ten (10) years and shall be fined five thousand dollars ($5000).

Section 9. Whereas in late 1997 the Governor attempted to offer property tax relief on motor vehicle assessments to the citizens of the Commonwealth; and whereas questions of establishing policy by administrative action rather than statutory action threaten the needed tax relief on motor vehicles; and whereas it is important to support the Governor's efforts statutorily, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law with the amendments contained in Sections 1 and 2 of this Act to apply retroactively to motor vehicles assessed on or after January 1, 1998.

Section 10. The amendments contained in Sections 3 to 8 of this Act shall apply to motor vehicles sold after July 31, 1998.

Calendar

HB 62 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 64, HB 16, HB 67, HB 78, and **HB 100** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to **HB 27**, by Representative Geveden:

On page 3, line 10, following "state" to add the following:

"***one (1) of whom shall be from the daily or weekly newspaper with the largest circulation in the county where the offense occurred and one (1) of whom shall be from the daily newspaper with the largest circulation in the county where the execution will be conducted***".

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committee (Continued)

The Committee on Rules reported that **HB 16, HB 78, HB 100,** and **HB 62** have been posted for passage in the Orders of the Day for January 9, 1998.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 210, by Representative Nunn: AN ACT relating to lakes.

HB 211, by Representative Nunn: AN ACT relating to boating.

HB 212, by Representative Nunn: AN ACT relating to small business.

HB 213, by Representatives Burch and Jordan: AN ACT relating to developmentally disabled individuals.

HB 214, by Representatives Marzian, Palumbo, Jordan, Jenkins, and Stein: AN ACT relating to abortion.

HB 215, by Representatives Collins and Crenshaw: AN ACT relating to school athletics.

HB 216, by Representative Collins: AN ACT relating to the calculation of average daily attendance for school funding.

HB 217, by Representative P. Clark: AN ACT relating to the costs of elections.

HB 218, by Representative P. Clark: AN ACT relating to inactive license status for cosmetology licensees.

HB 219, by Representatives Treesh and Barrows: AN ACT relating to school finance.

HB 220, by Representative Treesh: AN ACT relating to pupil transportation.

HCR 15, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Morton J. Holbrook, Jr., to the Higher Education Nominating Committee.

HCR 16, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Alcie Ann Combs to the Kentucky Board of Education.

Representative Stumbo moved that the rules be suspended to reassign **HB 38** to the Committee on Cities. Agreed.

Introduction of Resolutions (Continued)

HCR 17, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Martha Dell Sanders to the Kentucky Board of Education.

HCR 18, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Dr. Samuel

Robinson to the Kentucky Board of Education.

HCR 19, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Robert L. Jackson to the Higher Education Nominating Committee.

HCR 20, by Representative Stumbo: A CONCURRENT RESOLUTION confirming the appointment of Jeffrey C. Mando to the Kentucky Board of Education.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 124**, **HB 125**, **HB 131**, **HB 143**, **HB 145**, **HB 156**

Counties and Special Districts: **HB 52**

Motions, Petitions and Communications

Representative Nesler moved the adoption of the following **Legislative Citation No. 4**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Beth Ellen and Brian Mohon on the birth of Beau Thomas Ikerd Mohon who arrived at 4:30 AM the morning of January 8, 1998, weighing a healthy 7 lb.'s and measuring 22 inches long. Inasmuch as the birth of this, the Commonwealth's newest citizen, will be met with much celebration and joy, the members of this distinguished body are honored to join with Beau's devoted grandfather, Representative Fred Nesler, in welcoming the youngest addition to the Mohon and Nesler families and in extending their most sincere blessings and best wishes to young Beau and his parents. **Legislative Citation No. 4** was adopted without objection.

Representative Hogancamp moved that **HB 5** be withdrawn. Agreed.

Representative Coleman moved that **HB 180** and **HB 143** be withdrawn. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills under rules previously suspended: **HB 1**, Representatives Stewart, Mason, Lovell, A. Arnold, Bowling, Burch, Worthington, Geveden, Hatcher, Siler, Maricle, Newsome, Brandstetter, Treesh, Gee, Brown, Cave, Rader, Riggs, Jenkins, Coleman and J. Adams; **HB 4**, Representative Crimm; **HB 6**, Representatives A. Arnold and Crimm; **HB 13**, Representative Crimm; **HB 16**, Representatives Simpson, Walton and Hoffman; **HB 26**, Representative Callahan; **HB 58**, Representatives Thomas, McKee, Gooch, Lindsay and J. Arnold; **HB 62**, Representative Walton; **HB 67**, Representatives Callahan, D. D. Butler, Weaver, Haydon, Marzian, Jordan, Crall, and Hoffman; **HB 74**, Representatives Walton, Stine and J. Adams; **HB 82**, Representative Colter; **HB 87**, Representative Hoffman; **HB 100**, Representative Crimm; **HB 107**, Representative Hoffman; **HB 125**, **HB 157**, Representative Nunn; **HB 130**, **HB 159**, **HB 161**, Representative Bowling.

Announcements

The following meeting was announced:

Capital Projects Oversight, January 9, 1998, upon adjournment.

The following meeting was canceled:

Counties and Special Districts, January 8, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 9, 1998.

On the roll call the vote was **Yeas 82**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brown, Bruce, Burch, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, Gray, Hatcher, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Maricle, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts. **Nays 7**--Brandstetter, Bratcher, Crall, Heleringer, Nunn, Riggs, Stewart.

The motion to adjourn was adopted.

FRIDAY, JANUARY 9, 1998

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jay Ayers, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Brandstetter, Burch, Crenshaw, Deskins, Geveden, Wilkey and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 8, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 221, by Representatives Jordan, Marzian, Jenkins, Hoffman, Lee, Burch and Thomas: AN ACT relating to granting child custody to a nonparent.

HB 222, by Representatives Jordan, Brown, Jenkins, Hoffman, Ford, L. Clark, Callahan, Marzian, Bowling, Lee, Stein, and Nunn: AN ACT relating to crimes and punishments.

HB 223, by Representatives Jordan, Bowling, Marzian, Burch, Stein, and Nunn: AN ACT relating to abatement of buildings and properties used for criminal purposes.

HB 224, by Representative Simpson: AN ACT relating to crimes and punishments.

HB 225, by Representatives Marzian, L. Clark, Siler, Burch, Colter, Jenkins, Hatcher, Wayne, DeWeese, Horlander, Stein, Riggs, Stumbo, Crenshaw, Anderson, Palumbo, Crimm, Heleringer, Gray, Polston, Jordan, and Johns: AN ACT relating to the primary school program.

HB 226, by Representative Coleman: AN ACT relating to check cashing.

HB 227, by Representatives Coleman, Johns, Mason and Nunn: AN ACT relating to health care.

HB 228, by Representative Geveden: AN ACT relating to domestic relations.

HB 229, by Representatives Moberly, Richards, Barrows, Callahan, L. Clark, Long and Lee: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to the finances of the Commonwealth.

HCR 21, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Leonard V. Hardin to the Council on Postsecondary Education.

HCR 22, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Marlene M. Helm to the Council on Postsecondary Education.

HCR 23, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Ronald Greenberg to the Council on Postsecondary Education.

HCR 24, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Shirley Ann Menendez to the Council on Postsecondary Education.

HCR 25, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Marcia Milby Ridings to the Council on Postsecondary Education.

HCR 26, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Peggy M. Bertelsman to the Council on Postsecondary Education.

HCR 27, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Charles Whitehead to the Council on Postsecondary Education.

HCR 28, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Steve Barger to the Council on Postsecondary Education.

HCR 29, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Norma B. Adams to the Council on Postsecondary Education.

HCR 30, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Lois Combs Weinberg to the Council on Postsecondary Education.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 212, HCR 14**

Appropriations and Revenue: **HB 198, HB 199, HB 209**

Counties and Special Districts: **HB 201, HB 202**

Economic Development: **HB 206**

Education: **HB 193, HB 204, HB 215, HB 216, HB 219, HB 220, HCR 15, HCR 16, HCR 17, HCR 18, HCR 19, HCR 20**

Elections and Constitutional Amendments: **HB 197, HB 208, HB 217**

Health and Welfare: **HB 213**

Judiciary: **HB 200, HB 214**

Licensing and Occupations: **HB 218**

Natural Resources and Environment: **HB 196, HB 210, HB 211**

State Government: **HB 194, HB 205, HB 207**

Transportation: **HB 195, HB 203**

Calendar

HB 27 and **HB 74** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow a committee meeting. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committee (Continued)

The Committee on Rules reported that **HB 64** and **HB 67** have been posted for passage in the Orders of the Day for January 12, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 74**

Orders of the Day

Representative Stumbo moved that **HB 78** be recommitted to Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 5**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Joseph Wayne Sewell for his extraordinary heroic measures in seeking prompt medical attention for his three-day-old sister when she began choking at his family's home. Young Joseph demonstrated profound presence of mind and wisdom beyond his years when he ran to a neighbor's home and dialed 911. The attending emergency medical personnel credit Joseph with saving the life of his baby sister. The entire membership is pleased to join Representative Gippy Graham in honoring this exceptional young man for his courageous actions and in wishing for his continued good fortune and success in the future. **Legislative Citation No. 5** was adopted without objection.

HB 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **HB 16** be passed.

The Speaker Pro Tem assumed the Chair. The Speaker resumed the Chair.

On the roll call the vote was: Yeas 50 , Nays 42 (See January 9 , 1998 roll call on **HB 16** - Appendix.)

HB 16 was passed and the title agreed to. Representative Callahan moved that the vote by which **HB 16** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments

Floor Amendment No. 2 to **HB 27**, by Representative Marcotte:

On page 1, between lines 20 and 21, by inserting the following:

"***(3) Except for the pronouncement of death or to provide lifesaving medical care, no physician or nurse shall be involved in the conduct of an execution.***"

Floor Amendment No. 3 to **HB 27**, by Representative Heleringer:

By deleting Sections 1, 2, 3, 4, 5, and 6 of the bill in their entirety and inserting in lieu thereof:

"Section 1. KRS 24A.110 is amended to read as follows:

(1) The District Court shall have exclusive jurisdiction to make final disposition of all criminal matters, including violations of county, urban-county, or city ordinances or codes, except:

(a) Offenses denominated by statute as felonies or capital offenses; and

(b) Offenses punishable by [~~death or~~] imprisonment in the penitentiary.

(2) The District Court has exclusive jurisdiction to make a final disposition of any charge or a public offense denominated as a misdemeanor or violation, except where the charge is joined with an indictment for a felony, and all violations of county, urban-county, or city ordinances and, prior to trial, to commit the defendant to jail or hold him to bail or other form of pretrial release.

(3) The District Court has, concurrent with Circuit Court, jurisdiction to examine any charge of a public offense denominated as a felony or capital offense or which may be punished by [~~death or~~] imprisonment in the penitentiary and to commit the defendant to jail or hold him to bail or other form of pretrial release.

(4) The District Court may, upon motion and for good cause shown, reduce a charge of a felony to a misdemeanor in accordance with the Rules of Criminal Procedure.

Section 2. KRS 27A.430 is amended to read as follows:

The institutional level of the system shall consist of at least the following information:

(1) Date of institutionalization;

(2) Type of incoming action;

(3) [~~If defendant sentenced to death:~~

~~(a) First scheduled date of execution;~~

~~(b) Date defendant executed;~~

~~(c) Date sentence commuted in lieu of execution;~~

~~(d) Sentence to which sentence of death was commuted;~~

~~(4)~~] Date defendant released from institution;

(4)[~~(5)~~] Type of release from institution;

(5)[~~(6)~~] If the offender is released on parole:

(a) Offense for which convicted;

(b) Maximum expiration date;

(c) Minimum expiration date;

(d) Was the parole supervision fee imposed;

(e) What was the amount actually imposed for the parole supervision fee;

(f) What amount of the parole supervision fee was actually collected;

(g) Was restitution ordered as part of conditions of the parole;

(h) What amount of restitution was ordered;

(i) What amount of restitution has been paid;

(j) Was a victim impact statement presented to the parole board; did it favor the release of the offender;

(k) Did the prosecutor present a statement to the parole board; did it favor the release of the offender; and

(l) Did the victim or a representative of the victim appear before the parole board; did he favor the release of the offender;

(6)[~~(7)~~] If the offender released on parole violates parole or is rearrested:

(a) What was the specific parole violation;

(b) Was the offender arrested for the violation;

(c) What was the outcome of the parole violation hearing;

(d) Was the offender reinstitutionalized;

(e) If arrested for a new criminal offense, list the KRS number, name, and level of the offense;

(f) Was the offender subsequently convicted thereof;

(g) Was the offender reinstitutionalized for the offense; and

(h) Was the offender placed on probation for the offense.

Section 3. KRS 431.060 is amended to read as follows:

Offenses are either felonies, misdemeanors, or violations:

(1) Offenses punishable by [~~death or~~] confinement in the penitentiary, whether or not a fine or other penalty may also be assessed, are felonies.

(2) Offenses punishable by confinement other than in the penitentiary, whether or not a fine or other penalty may also be assessed are misdemeanors.

(3) Offenses punishable by a fine only or by any other penalty not cited herein, whether in combination with a fine or not, are violations.

Section 4. KRS 431.215 is amended to read as follows:

(1) If the judgment imposes a sentence of [~~death or~~] confinement in the penitentiary, county jail***,*** or other institution, two (2) certified copies thereof shall be furnished forthwith to the sheriff who shall execute the same by delivering the defendant and a certified copy of the judgment to the person in charge of the penitentiary, jail or institution of confinement and making a written return thereof in the office of the circuit clerk within ten (10) days after the execution.

(2) When the judgment imposes a sentence of [~~death or~~] confinement in the penitentiary, the county in which the prisoner is incarcerated shall receive from the State Treasury a fee per day beginning on the fifth day following the day on which judgment was rendered and ending the day that the defendant is delivered to the penitentiary. The fee shall be paid to the county treasurer for use for the incarceration of prisoners as provided in KRS 441.025.

Section 5. KRS 431.510 is amended to read as follows:

(1) It shall be unlawful for any person to engage in the business of bail bondsman as defined in KRS 304.34-010(1), or to otherwise for compensation or other consideration:

(a) Furnish bail or funds or property to serve as bail; or

(b) Make bonds or enter into undertakings as surety;

for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine ***or***[~~,~~] imprisonment [~~or death~~], before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.

(2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on June 19, 1976.

(3) Within thirty (30) days from June 19, 1976, every bail bondsman heretofore licensed under Chapter 304, Subtitle 34, shall furnish to the commissioner of the Department of Insurance a certified copy of his daily bond register required by KRS 304.34-070, and the commissioner shall retain the securities of each bail bondsman deposited with the custodian of insurance securities until all undertakings shall have been paid and satisfied in full.

(4) KRS 431.510 to 431.550 shall not be construed to limit or repeal KRS 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and nonprofit associations from posting or causing to be posted by licensed insurers security or acting as surety for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security or acting as surety is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

Section 6. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.

(4) If the defendant has been convicted of an offense under KRS 510.040, 510.050, 510.070, 510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(5) If the defendant has been convicted of an offense under KRS 510.060, 510.090, or 510.110, prior to considering the motion to suspend a sentence, the court shall order an evaluation of the defendant to be conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045 (3) to (7) shall apply.

(6) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

[~~(7) The provisions of this section shall not apply where a sentence of death has been imposed.~~]

Section 7. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim, or serious physical injury to a victim.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to ***life imprisonment without possibility of probation or parole or*** twenty-five (25) years without parole), or a Class A felony and receives a life sentence[~~, or to death and his sentence is commuted to a life sentence~~] shall not be released on parole until he has served ***his entire sentence*** [~~at least twelve (12) years in the penitentiary~~].

(3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or

Class B felony who is a violent offender shall not be released on parole until he has served at least fifty percent (50%) of the sentence imposed.

(4) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(5) This section shall apply only to those persons who commit offenses after July 15, 1986.

Section 8. KRS 440.280 is amended to read as follows:

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by [~~death or~~] imprisonment for a term exceeding one (1) year, but when so arrested the accused must be taken before a judge with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

Section 9. KRS 440.300 is amended to read as follows:

Unless the offense with which the prisoner is charged is shown to be an offense punishable by [~~death or~~] life imprisonment ***or life imprisonment without possibility of probation or parole*** under the laws of the state in which it was committed, a judge in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state.

Section 10. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the ***sentence of life imprisonment without possibility of probation or parole*** [~~death penalty~~] may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the ***sentence may become life imprisonment without possibility of probation or parole*** [~~death penalty may be imposed~~], the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the ***sentence of life imprisonment without possibility of probation or parole*** [~~death penalty~~] may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the ***sentence of life imprisonment without possibility of probation or parole*** [~~death penalty~~] may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his duties;

6. The offender's act or acts of killing were intentional and resulted in multiple deaths; and

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties;

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental illness or retardation or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of ***a sentence of life imprisonment without possibility of probation or parole*** [~~death~~], or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the ***sentence of life imprisonment without possibility of probation or parole*** [~~death penalty~~] or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Section 11. KRS 532.030 is amended to read as follows:

(1) When a person is convicted of a capital offense he shall have his punishment fixed at ***life imprisonment without benefit of probation or parole*** [~~death~~], or at a term of imprisonment for life without benefit of probation or parole until he has served a minimum of twenty-five (25) years of his sentence, or to a sentence of life, or to a term of not less than twenty (20) years.

(2) When a person is convicted of a Class A felony he shall have his punishment fixed at imprisonment in accordance with KRS 532.060.

(3) When a person is convicted of an offense other than a capital offense or Class A felony, he shall have his punishment fixed at:

(a) A term of imprisonment authorized by this chapter; or

(b) A fine authorized by KRS Chapter 534; or

(c) Both imprisonment and a fine unless precluded by the provisions of KRS Chapter 534.

(4) In all cases in which the ***sentence of life imprisonment without possibility of probation or parole*** [~~death penalty~~] may be authorized the judge shall instruct the jury in accordance with subsection (1) of this section. The instructions shall state, subject to the aggravating and mitigating limitations and requirements of KRS 532.025, that the jury may recommend upon a conviction for a capital offense a sentence of ***life imprisonment without possibility of probation or parole*** [~~death~~], or a term of imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, or a sentence of life, or to a term of not less than twenty (20) years.

Section 12. The following KRS sections are repealed:

431.220 Execution of death sentence.

431.240 Time of execution -- Governor to fix time in case of insanity, pregnancy, or escape -- Administrative hearings -- Transfer to forensic psychiatric facility in case of insanity.

431.250 Persons who may attend executions.

431.260 Warden's return on judgment.

532.075 Review of death sentence by Supreme Court."

Floor Amendment No. 2 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 5, beginning with line 7 after "retail price" and ending with line 12 by bracketing and striking through the existing language and inserting the following:

"***means the total consideration given at the time of purchase or at a later date, including all equipment and accessories, standard and optional, and including the average loan value, from a automotive reference manual prescribed by the Revenue Cabinet, for any motor vehicle taken in trade, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. Total consideration given shall not include:***

1. Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

2. Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

3. Any item not considered to be equipment or accessories.

If a notarized affidavit signed by both the buyer and seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the Revenue Cabinet;".

Floor Amendment No. 1 to the Committee Substitute to **HB 74**, by Representative Ford:

On page 7, line 10, after the word "***state***" by inserting the following:

"***and for new motor vehicles having a declared gross weight of the vehicle and any towed unit for registration purposes, under the provisions of KRS 186.050, of greater than fifty-five thousand (55,000) pounds,***".

Floor Amendment No. 1 to the Committee Substitute to **HB 62**, by Representative Stumbo:

On page 10, line 25, after "convicted" by inserting "***and persons who qualify under subparagraph 5. of paragraph (a) of this subsection***"; and

On page 11, line 15, by placing brackets around and striking through "and"; and

On page 11, line 17, after "crime" by inserting the following:

"***; and***

5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because of their employment location".

Orders of the Day (Continued)

HB 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved that **HB 100** be passed.

On the roll call the vote was: Yeas 90, Nays 0 (See January 9 , 1998 roll call on **HB 100** - Appendix.)

HB 100 was passed and the title agreed to. Representative Colter moved that the vote by which **HB 100** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 119** and **HB 175** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 230, by Representative Nesler: AN ACT relating to payroll deductions.

HB 231, by Representatives A. Arnold, D. Graham, Thomas, Sims, McKee, and R. Adams: AN ACT relating to the Linked Deposit Investment Program.

HB 232, by Representative A. Arnold: AN ACT relating to pilot projects.

HB 233, by Representative A. Arnold: AN ACT relating to the operation of canteens in jails.

HB 234, by Representatives Long, Barrows, G. Graham, R. Adams, and Coleman: AN ACT relating to retirement.

HB 235, by Representative A. Arnold: AN ACT proposing an amendment to Section 228 of the Constitution of Kentucky relating to the oath of officers and attorneys.

HB 236, by Representative Simpson: AN ACT relating to notice of action.

HB 237, by Representative Clarke: AN ACT relating to the Kentucky School for the Blind and School for the Deaf.

HB 238, by Representative Heleringer: AN ACT relating to carrying of concealed deadly weapons.

HB 239, by Representative L. Clark: AN ACT relating to crimes and punishments.

HB 240, by Representatives Moberly, Lee, Richards, L. Clark, Damron, Murgatroyd, Adkins, Stumbo, Stacy, Thomas, Sims, Ford, J. Adams, Napier, Lindsay, Treesh, Pope, R. Adams, Weaver, Callahan, Lovell, Barrows, Haydon, Long, and Nunn: AN ACT relating to income tax.

HB 241, by Representative Ford: AN ACT relating to crimes and punishments.

HB 242, by Representative Maricle: AN ACT relating to cellular and personal communications services telecommunications facilities.

HB 243, by Representatives Alexander, Bowling, Newsome, P. Clark, Anderson, and Pope: AN ACT relating to nonconventional medical treatment.

HR 31, by Representatives Simpson, Kerr, Callahan, Marcotte, Stine, Reinhardt, Walton, R. Adams, and Murgatroyd: A RESOLUTION adjourning the House of Representatives in loving memory and honor of a true hero, Officer Mike Partin.

HCR 32, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Daniel Hall to the Kentucky Long-Term Research Center Board.

HJR 33, by Representatives Maricle, Allen, Brown, Ford, Bruce and Collins: A RESOLUTION directing the Transportation Cabinet to name KY 1526 between Blue Lick Road and KY 61, also known as the Brooks Extension Road, the "John Harper Road" and to erect appropriate highway signs.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 112**

Appropriations and Revenue: **HB 170, HB 198, HB 199, HB 74**

Counties and Special Districts: **HB 168**

Agriculture and Small Business: **HB 39, HB 45, HB 58, HB 122, HB 176**

Cities: **HB 38, HB 28, HB 87**

Motions, Petitions and Communications (Continued)

Representative Lee moved that **HB 105** be withdrawn. Agreed.

Representative Moberly moved the adoption of the following **Legislative Citation No. 10**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Harry Moberly, Sr. upon his 85th Birthday In celebration of this memorable event the entire membership joins Representative Harry Moberly, Jr. in commending his father, who celebrated his 85th birthday on January 7, 1998. Harry Moberly, Sr., a U. S. Navy veteran of World War II, worked for thirty-nine years at the U. S. Post Office in Richmond, Kentucky, starting as a mail carrier making sixty-five cents an hour and going on to become the Post Master, a position he held for nineteen years. He served the citizens of the Richmond community with distinction and is honored this day for a life lived to the fullest and for the vitality of heart which has brought him thus far. This distinguished body hereby extends best wishes on this meaningful occasion of his birthday. **Legislative Citation No. 10** was adopted without objection.

Representative Simpson moved the adoption of the following **HR 31**:

HR 31, A RESOLUTION adjourning the House of Representatives in loving memory and honor of a true hero, Officer Mike Partin.

"Unbounded courage and compassion join'd.../Alternately proclaim him good and great,/And make the hero and the man complete." - Addison

WHEREAS, throughout the years that this nation has stood, our great Commonwealth has been protected by police officers who have risked their lives for the sake of others; and

WHEREAS, Officer Mike Partin, a native of Batavia, Kentucky, was sworn in as a police officer with the Covington Police Department on September 9, 1996; and

WHEREAS, on January 4, 1998, Officer Mike Partin sacrificed his life while attempting to assist a fellow police officer in the line of duty, and tragically, efforts to rescue his body from the cold and swollen Ohio River have proven unsuccessful; and

WHEREAS, the heroism displayed in this unselfish act by Officer Mike Partin reveals to us the risks, dangers, and sacrifices involved in being a police officer, and the overwhelming grief and suffering afflicted upon his family and friends is beyond meaning; and

WHEREAS, it is with heavy hearts and deep sadness when we reflect upon this tragic event, and Officer Mike Partin is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hereby expresses its profound sense of sorrow upon the untimely and tragic passing of Officer Mike Partin, and extends to his family and friends its most heartfelt sympathy.

Section 2. A life spent worthily is measured by deeds, not years, and through his compassion, enthusiasm, and genuine concern for his fellow man, Officer Mike Partin is worthy of the highest commendation.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of a true hero, Officer Mike Partin.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Lisa Partin, 5053 Sandman Drive, Taylor Mill, Kentucky 41015, and to Chief of Police Albert B. Bosse, Covington Police Department, 1929 Madison Avenue, Covington, Kentucky 41014.

There being no objection **HR 31** was adopted.

Representative Mason moved the adoption of the following **Legislative Citation No. 7**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Blackburn Hogg and extends sincerest expressions of sympathy to his loving wife, Opal Back Hogg, his seven devoted sons, two cherished daughters, his brothers and sisters and his beloved grandchildren and great grandchildren. This outstanding native son of Letcher County, a retired coal miner, was a respected community leader, active in political affairs and uncommonly generous with his fellow citizens in times of need. His tender ministrations to those who had suffered the loss of loved ones will be long remembered. The House of Representatives joins Representative Paul Mason in reaching out to all the friends and family of Blackburn Hogg during this sorrowful time, offering sincere condolences and adjourning January 9, 1998, in loving memory of this remarkable Kentucky citizen. **Legislative Citation No. 7** was adopted without objection.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 9**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of Morris Vaughn Isaac. Members of the House of Representatives do honor said individual and his devastated family, whose loss is irreplaceable. This prestigious body doth share in this phenomenal tragedy of both family and the community of Martin, Kentucky where Morris Vaughn Isaac was a respected citizen and businessman and a generous neighbor, demonstrated by his extraordinary community involvement; therefore, this honorable body offers the hope that Morris Vaughn Isaac is serene beyond the cares and worries of this world and is now wearing that crown of jewels so ardently deserved. The Kentucky House of Representatives doth hereby adjourn this ninth day of January, nineteen hundred and ninety-eight in memory of this extraordinary person who is revered by many. **Legislative Citation No. 9** was adopted without objection.

The following members filed requests to have their names added as co-sponsors to Bills and Resolutions: **HB 1**, Representatives Baugh, Jenkins, Heleringer, Vincent, Alexander, Polston, Zimmerman; **HB 6**, Representatives Allen, Murgatroyd; **HB 17**, Representatives Rader, Colter; **HB 26**, Representative R. Adams; **HB 37, HB 52, HB 70, HB 90**, Representative Rader; **HB 54**, Representative Colter; **HB 67**, Representatives Bratcher, Jenkins, Riggs, Johns, Gooch, Crimm, Rader; **HB 74**, Representative Riggs; **HB 102**, Representatives Jenkins, Alexander; **HB 130**, Representative Stein; **HB 132**, Representative Nunn; **HB 151**, Representatives Alexander, Pope; **HB 159, HB 161**, Representative Stein; **HB 168**, Representative Riggs; **HB 170**, Representatives Thomas, Riggs, Marcotte; **HB 219**, Representative Pope; **HB 222, HB 223**, Representative Hatcher; **HB 225**, Representative Vincent; **HB 240**, Representative Crall; **HJR 2**, Representative Crimm; **Legislative Citation No. 9**, Representative Anderson.

Announcements

The following announcements were made:

Labor and Industry will meet at 9:00 a.m. instead of 8:00 a. m. on Thursdays.

Economic Development, canceled, January 12, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., January 12, 1998.

On the roll call the vote was **Yeas 74**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, Coleman, Collins, Colter, Cox, Crimm, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Stein, Stine, Stumbo, Treesh, Turner, Vincent, Walton, Wayne, Yonts, Zimmerman. **Nays 5**--Crall, Heleringer, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

MONDAY, JANUARY 12, 1998

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Chuck Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Alexander, Allen, Brown, Gooch, Lindsay, Maricle, Miniard, and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 9, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 244, by Representative Burch: AN ACT relating to health insurance and declaring an emergency.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 62**, by Representative Palumbo:

On page 29, between lines 18 and 19, by inserting the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) No person or committee shall accept or agree to accept, either directly or indirectly, from a candidate, slate of candidates, committee, contributing organization, or any person required to file reports pursuant to KRS 121.180 or from a person on behalf of a candidate, slate of candidates, committee, contributing organization, or person so required to file reports, anything of economic value, including any reimbursement of costs, for the purpose of transporting a voter or causing a voter to be transported in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of any motor vehicle being so used.

(2) No candidate, slate of candidates, committee, contributing organization, or person required to file reports pursuant to KRS 121.180, and no person on behalf of a candidate, slate of candidates, committee, contributing organization, or person so required to file reports, shall pay or agree to pay anything of economic value, including any reimbursement of costs, to any person or committee for the purpose of transporting a voter or causing a voter to be transported in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of a motor vehicle being so used.

(3) Whoever violates the provisions of subsection (1) or (2) shall be assessed a civil fine of two thousand five hundred dollars ($2,500). For a second violation, or for any succeeding violation, the penalty shall be a civil fine of five thousand dollars ($5,000) for each violation.

(4) (a) The provisions of this section shall not be applicable to any person who gratuitously transports voters to the polls on election day or who gratuitously transports voters to vote absentee.

(b) The provisions of this section shall not prohibit paying or offering or agreeing to pay any bona fide bus, taxi, or transportation service, which holds a license or permit duly issued by the appropriate governmental entity and which regularly does business in the area, to transport a voter to vote or vote absentee, nor shall this section prohibit any such bus, taxi, or transportation service from accepting or agreeing to accept such a payment.

Section 1. KRS 119.205 is amended to read as follows:

(1) Any person who makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(2) Any person who solicits, accepts, or receives any such expenditure as payment or consideration for his vote, or the withholding of his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(3) For purposes of this section, "expenditure" means any of the following when intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question:

(a) A payment, distribution, loan, advance, deposit, or gift of money or anything of value; or

(b) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a payment, distribution, loan, advance, deposit, or gift of money or anything of value.

"Expenditure," as used in this section, shall not include the distribution of materials bearing the name, likeness, or other identification of a candidate, political party, committee, or organization, or position on a public question and not intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question.

(4) ~~[Any candidate or committee, or any person on his behalf, who pays any person, including campaign workers, for transporting voters to the polls on the day of the election, shall make all payments by check. All payments, regardless of amount, shall be reported to the Registry of Election Finance in the manner that the Registry shall provide by administrative regulation. Any person who knowingly violates any requirement of this subsection shall be guilty of a Class B misdemeanor.~~

~~(5)~~]In addition to the above provisions, a person may be convicted of a violation of this section pursuant to KRS 502.020."; and

On page 29, line 19, by deleting "16" and inserting in lieu thereof "18"; and

On page 30, line 4, by deleting "17" and inserting in lieu thereof "19".

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 231**

Appropriations and Revenue: **HB 240**

Banking and Insurance: **HB 226**

Counties and Special Districts: **HB 230, HB 233, HB 236, HB 242**

Education: **HB 225, HB 237, HCR 21, HCR 22, HCR 23, HCR 24, HCR 25, HCR 26, HCR 27, HCR 28, HCR 29, HCR 30**

Elections and Constitutional Amendments: **HB 229, HB 235**

Health and Welfare: **HB 227, HB 243**

Judiciary: **HB 221, HB 222, HB 223, HB 224, HB 228, HB 238, HB 239, HB 241**

State Government: **HB 232, HB 234, HCR 32**

Transportation: **HJR 33**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 40**

Health and Welfare: **HB 142, HB 161**

Education: **HB 2, HB 53, HB 97, HB 104, HB 185**

Judiciary: **HB 22, HB 23, HB 37, HB 54, HB 136, HB 177**

State Government: **HB 109, HB 110, HB 135**

Tourism: **HB 1**

Orders of the Day

HB 64, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Clarke moved the adoption of the Committee Substitute to **HB 64**. Agreed.

Representative J. Clarke moved that **HB 64**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See January 12, 1998 roll call on **HB 64** - Appendix.)

HB 64, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Clarke moved that the vote by which **HB 64**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 67 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 67** be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See January 12 , 1998 roll call on **HB 67** - Appendix.)

HB 67 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 67** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 100**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "nay" on **HB 16**. Agreed.

Representative Hoover moved the adoption of the following **Legislative Citation No. 11**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Mrs. Elda Emerson and extends sincerest expressions of sympathy to her loving children, Pauline Hubbard, J. S. Emerson, Estus Emerson, her cherished sister, Verla Layman, and her beloved grandchildren and great grandchildren. The members of this honorable body join Representative Jeffrey H. Hoover in reaching out to all the friends and family of Mrs. Emerson during this sorrowful time, offering sincere condolences and adjourning January 12, 1998, in loving memory of this much-loved citizen of the Commonwealth. **Legislative Citation No. 11** was adopted without objection.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 8**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of John F. Nichols Jr. The members of this honorable body join Representative Gippy Graham in expressing deepest sympathy to the Nichols family and to all those friends and colleagues who share in the great loss on the passing of this fine Kentuckian, whose contributions to this Commonwealth were extraordinary while serving as secretary and deputy secretary of the Natural Resources and Environmental Protection Cabinet, director of communications for the Kentucky Department of Agriculture, director of community assistance for the Kentucky Commerce Department's Office of Community Development and as press secretary to former Governor Julian Carroll. After leaving state government service, he continued his contributions to his fellow Kentuckians, working as director of environmental affairs and vice president of Associated Industries of Kentucky's Chemical Industry Council. He lived a full and wonderful life that will serve as an inspiration for others and will be most sadly missed by his devoted wife, Carolyn, his beloved sons, Mark and John, and all whose lives were touched by this fine man. **Legislative Citation No. 8** was adopted without objection.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills (Continued)

HB 245, by Representative Adkins: AN ACT relating to state personnel.

HB 246, by Representative Richards: AN ACT proposing an amendment to Section 36 of the Constitution of Kentucky relating to legislative sessions.

HB 247, by Representative Simpson: AN ACT relating to the County Employees Retirement System.

HB 248, by Representative Mason: AN ACT relating to highways.

HB 249, by Representative Marzian: AN ACT relating to emergency medical services for children.

HB 250, by Representatives Jenkins, Riggs, Jordan, Hoffman, Vincent, P. Clark, Marzian, Horlander and L. Clark: AN ACT relating to hazardous duty retirement.

HB 251, by Representative Treesh: AN ACT relating to Kentucky Lottery advertising.

HB 252, by Representative Treesh: AN ACT relating to domestic relations.

HB 253, by Representative Hatcher: AN ACT relating to sales and use tax.

HB 254, by Representatives Marzian, Johns, and Jordan: AN ACT relating to bicycle safety.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 6, HB 63, HB 167, HB 173**

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 1, line 5, by deleting "***trade-in***" and inserting in lieu thereof "***loan***".

Floor Amendment No. 3 to **HB 62**, by Representative Murgatroyd:

On page 29, by restoring lines 16 through 18 by removing the brackets and strikethroughs; and

On page 29, line 16, by inserting before (6) "***(7)***" and by placing brackets around and striking through "(6)".

Motions, Petitions and Communications (Continued)

Representative Bowling moved the adoption of the following **Legislative Citation No. 6**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends special recognition to Marina Fehrenbach for her gracious and valuable assistance to the Mountain Caucus on opening day of the Regular Session of the Kentucky General Assembly at the Old Capitol. Her generous help with the costumes contributed greatly to the historical ambience of this momentous occasion. The members of this prestigious body are pleased to join with the members of the Mountain Caucus in expressing sincere gratitude for the laudable efforts of Marina Fehrenbach and in extending to her best wishes for the future as she continues to serve the Commonwealth of Kentucky with a generous spirit and high distinction. **Legislative Citation No. 6** was adopted without objection.

Representative D. Butler moved that **HB 194** be withdrawn. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 100**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "nay" on **HB 16**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that he be recorded as voting "yea" on **HB 67**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that he be recorded as voting "yea" on **HB 64**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that he be recorded as voting "yea" on **HB 67**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 64** and **HB 67**. Agreed.

The following members filed requests to have their names added as co-sponsors to Bills under previously suspended rules: **HB 1**, Representatives P. Clark, Crimm, Stein, Scott, Barrows, G. Graham, Rasche; **HB 2**, Representative Walton; **HB 25, HB 39, HB 240**, Representative J. Arnold; **HB 51**, Gray; **HB 52**, Representative Bruce; **HB 67**, Representatives P. Clark, Walton, Sims; **HB 90**, Representatives Crimm, Heleringer; **HB 106**, Representative Marcotte; **HB 118, HB 240, HB 241**, Representative Heleringer; **HB 127**, Representative Jenkins; **HB 170**, Representative Marzian.

Announcements

The following meetings were announced:

Minority Caucus, January 13, 1998, 1:30 p.m., Room 113.

Natural Resources and Environment, January 13, 1998.

Mountain Caucus, 15 minutes upon adjournment, January 12, 1998, Room 111.

Personal Service Contracts, January 13, 1998, 10:00 a.m.

State Government, January 13, 1998, Noon, Room 131.

Health and Welfare, January 13, 1998, 8:00 a.m.

Appropriations and Revenue, January 13, 1998, 10:00 a.m., Room 129.

The following meeting was canceled:

Budget Review Subcommittee on Human Resources, January 13, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 13, 1998.

On the roll call the vote was **Yeas 82**--J. Adams, R. Adams, Adkins, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Bruce, Burch, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Murgatroyd, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stewart, Stine, Stumbo, Thomas, Turner, Vincent, Walton, Weaver, Worthington, Yonts, Zimmerman. **Nays 2**--Crall, Heleringer.

The motion to adjourn was adopted.

TUESDAY, JANUARY 13, 1998

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Alexander.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 12, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 255, by Representatives Stein, Mason, and Nunn: AN ACT relating to children's health insurance and declaring an emergency.

HB 256, by Representative Rasche: AN ACT relating to charitable food kitchens.

HB 257, by Representative D. Graham: AN ACT relating to teachers' retirement.

HB 258, by Representative D. Graham: AN ACT relating to the Kentucky Egg Marketing Law.

HB 259, by Representative Clarke: AN ACT relating to campaign finance violations.

HJR 34, by Representative Richards: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 35, by Representative Richards: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 36, by Representative Richards: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HR 37, by Representatives Richards, Stumbo, Barrows, L. Clark, and Callahan: A RESOLUTION adopting Rules of Procedure for the House of Representatives.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 253**

Counties and Special Districts: **HB 247, HB 250**

Elections and Constitutional Amendments: **HB 246**

Health and Welfare: **HB 244, HB 249**

Judiciary: **HB 252**

State Government: **HB 245, HB 251**

Transportation: **HB 248, HB 254**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HB 175**

Natural Resources and Environment: **HB 4, HB 171**

Transportation: **HB 137, HB 195, HJR 33**

Counties and Special Districts: **HB 68, HB 127, HB 201, HB 202**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 74**, with Committee Substitute and Committee Title Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

By amending the title to read as follows:

"AN ACT relating to the taxation of motor vehicles and declaring an emergency."

The Committee on Appropriations and Revenue reported **HB 170**, **HB 198** and **HB 199**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 170, AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***1997***~~[1995]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ***1997***~~[1995]~~, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

    (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

    (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

    (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

    (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

    (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

    (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam; and

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below; except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The provisions of this Act apply to tax years beginning after December 31, 1996.

Section 3. Whereas the filing deadline for income taxes is April 15, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 198, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. Sec. 81, fifteen cents ($0.15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570 except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business***, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease under a floor plan financing arrangement;*** and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

HB 199, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured

agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in ***the person's***~~[his]~~ farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. Sec. 81, fifteen cents ($0.15) upon ***manufacturing*** machinery ***owned or leased by***~~[of]~~ individuals or corporations actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;

3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and

4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state

real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570 except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in ***the person's***[~~this~~] farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) ***Manufacturing*** machinery***, whether owned or leased,*** and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing ***in this section***[~~herein~~] shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; and

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800.

The Committee Substitute to **HB 199** is as follows:

AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. Sec. 81, fifteen cents ($0.15) upon machinery[~~ of individuals or corporations~~] actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;

3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and

4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty

cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570 except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery ***actually engaged in manufacturing,***~~[and]~~ products in ***the*** course of manufacture,~~[of individuals or corporations actually engaged in manufacturing,]~~ and ~~[their]~~raw material actually on hand at ***the***~~[their]~~ plant for the purpose of manufacture.~~[Individuals or corporations actually engaged in]~~ The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be~~[actually engaged in]~~ manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that

the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; and

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800.

The Committee on Health and Welfare reported **HB 131, HB 145,** and **HB 156** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 131, AN ACT relating to tuberculosis testing of children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child[~~ tested for tuberculosis and~~] immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for Human Resources. Additional immunizations may be required by the Cabinet for Human Resources through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis [~~tested, ~~]examined[~~,~~] and treated according to administrative regulations of the Cabinet for Human Resources promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for Human Resources.

(2) ***A local health department may, with the approval of the Department of Health Services, require all first-time enrollees in a public or private school within the health department's jurisdiction to be tested for tuberculosis prior to entering school***[~~Each child entering the public schools shall have proof of having been tested for tuberculosis prior to enrollment~~]. Following the first year of school, upon an epidemiological determination made by the state or ***local***[~~regional~~] health officer in accordance with administrative regulations promulgated by the Cabinet for Human Resources, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis[~~ tested,~~] examined and treated according to administrative regulations of the Cabinet for Human Resources.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for Human Resources, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) For each child cared for in a day care center, certified family child care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Human Resources, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

(5) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day care centers, certified family child care homes, or other licensed facilities which care for children.

Section 2. KRS 158.037 is amended to read as follows:

Each public or private elementary or secondary school shall report[~~ tuberculin skin test and~~] immunization results to its local health department in accordance with regulations promulgated by the Cabinet for Human Resources.

HB 145, AN ACT relating to family resource and youth service centers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.4977 is amended to read as follows:

(1) Beginning with fiscal year 1992[~~ through fiscal year 1997~~], grants shall be awarded to eligible local school districts to implement or continue family resource and youth services centers as defined in KRS 156.497.

(2) Grant proposal instructions shall be developed by the Cabinet for Human Resources[~~ upon the recommendations of the Interagency Task Force on Family Resource and Youth Services Centers~~]. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.

(3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Human Resources[~~ upon the recommendation of the task force~~]. Proposal reviewers shall be selected by the secretary of the Cabinet for Human Resources[~~ and approved by the task force~~]. The reviewers shall submit the scored proposals to the ***secretary of the Cabinet for Human Resources***[~~task force which shall make the final recommendations to the secretary~~]. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.

(4) The application from each qualifying school or school consortium shall contain the following:

(a) A statement of need;

(b) Proposed goals and outcomes;

(c) A description of the actual services and activities to be provided at the center and how they shall be provided;

(d) A description of how the children and families with the most urgent needs will be served first;

(e) Written agreements with other service providers;

(f) A description of the development, composition, and role of the local advisory council;

(g) The strategies to disseminate information;

(h) A training plan;

(i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.441, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;

(j) A plan to minimize stigma;

(k) A work plan for each of the core components and optional components;

(l) Job descriptions for staff;

(m) A description of the center location and school accessibility;

(n) A description of the hours of operation of the center;

(o) A financial strategy and budget;

(p) A program evaluation plan; and

(q) Letters of endorsement and commitment to the center from community agencies and organizations.

(5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.

Section 2. Whereas under KRS 156.497(7), the Interagency Task Force on Family Resource and Youth Services Centers ceased to exist on December 31, 1997, and will no longer perform duties in relation to the award of grants to local school districts for Family Resource and Youth Services Centers, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 156, AN ACT relating to testing of pregnant women for hepatitis B.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.160 is amended to read as follows:

(1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at

the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for Human Resources or a laboratory approved by the cabinet, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for Human Resources.

(2) The Cabinet for Human Resources shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for Human Resources, if the attending person has reason to believe based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for Human Resources is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

(6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.

(7) Every physician or other person legally permitted to engage in attendance upon a pregnant woman in the Commonwealth shall take or cause to be taken from the woman a specimen of blood, which shall be submitted for the purpose of serologic testing for the presence of hepatitis B surface antigen, to a laboratory certified by the United States Department for Health and Human Services pursuant to Section 333 of the Public Health Service Act (42 U.S.C. 263a) as revised by the Clinical Laboratory Improvement Amendments (CLIA), Public Law 100-578.

The Committee on State Government reported **HB 132**, with Committee Substitute attached thereto, **HB 154, HJR 2** and **HCR 3** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 132, AN ACT relating to the reorganization of the Cabinet for Human Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 194A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health Services; and

(2) "Secretary" means the secretary for health services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet is the primary state agency for operating the public health, Medicaid, certificate of need and licensure, and mental health and mental retardation programs in the Commonwealth. The function of the cabinet is to improve the health of all Kentuckians, including the delivery of population, preventive, reparative, and containment health services in a safe and effective fashion, and to improve the functional capabilities and opportunities of Kentuckians with disabilities. The cabinet is to accomplish its function through direct and contract services for planning and through the state health plan and departmental plans for program operations, for program monitoring and standard setting, and for program evaluation and resource management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary for health services and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(2) The secretary may delegate any duties of the office of secretary to employees of the cabinet as the secretary deems

necessary and appropriate, unless otherwise prohibited by statutes.

(3) The secretary may enter into any contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary to carry out the general intent and purposes of the cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary;

(2) Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

(3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:

- *(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;*
- *(b) Licensing and regulatory functions as the secretary may delegate;*
- *(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and*
- *(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.*

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(7) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS

200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

(8) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

(9) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and departments not established in 1974 Ky. Acts ch. 74, Art. VI or this Act, and shall organize the cabinet into offices, divisions, regions, districts, and other administrative units as the secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the cabinet.

(2) The secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create positions that enable the cabinet to fulfill all functions assigned to it. The secretary shall designate a person to act as deputy to exercise the duties of the office in case of absence.

(3) The secretary shall, with the approval of the Governor, elect coverage for employees of the cabinet under the unemployment insurance law when required by federal law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall develop and promulgate administrative regulations that protect the confidential nature of all records and reports of the cabinet that directly or indirectly identify a client or patient or former client or patient of the cabinet and that insure that these records are not disclosed to or by any person except as, and insofar as:

(a) The person identified or the guardian, if any, shall give consent; or

(b) Disclosure may be permitted under state or federal law.

(2) The cabinet shall share pertinent information from within the agency's records on clients, current and former clients, recipients, and patients as may be permitted by federal and state confidentiality statutes and regulations governing release of data with other public, quasi-public, and private agencies involved in providing services to current or former clients or patients subject to confidentiality agreements as permitted by federal and state law if those agencies demonstrate a direct, tangible, and legitimate interest in the records. In all instances, the individual's right to privacy is to be respected.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to utilize and promote available or potential community resources for the delivery of services and shall, when it deems appropriate, contract for services with local, community, and private agencies when services would not otherwise be available without cost. The cabinet and local, community, and private agencies operating on contract with the cabinet may charge for services rendered when this would be in accordance with applicable state law.

SECTION 9. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The secretary shall arrange for the development of a cost allocation plan by the cabinet. The cost allocation shall be developed in accordance with generally recognized accounting practices and shall make provisions for the distribution of operational and administrative costs of all organizational units of the cabinet to all programs operated by the cabinet that receive services or are otherwise benefited by the operations of those organizational units.

SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public.

(2) A Public Health Services Advisory Council is created within the cabinet.

(a) The council shall advise the secretary for health services, the commissioner for public health, and officials of the Commonwealth on policy matters concerning the delivery of health services, including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the cabinet to fulfill federal requirements for citizen's advisory councils associated with programs designed to provide health services and to advise the cabinet on the development and content of the state health plan;

(b) The council shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Six (6) members of the council shall be chosen to broadly represent public interest groups concerned with health services, recipients of health services provided by the Commonwealth, minority groups, and the general public. Thirteen (13) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital, and one (1) shall be a physician in active practice. At least one (1) member shall be a registered sanitarian or sanitary engineer, one (1) a public health nurse, one (1) a member of the current minority advisory council, and one (1) a practicing public health physician. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that area development districts are represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the term begins for their appointed successors. No member shall serve more than two (2) consecutive terms. The chair of the council shall be appointed by the Governor. The secretary for health services and the commissioner for public health shall be nonvoting, ex officio members of the council, and the commissioner for public health shall be a staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for health services or the commissioner for public health. A majority of the appointed members shall constitute a quorum.

SECTION 11. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Advisory Council for Medical Assistance, established by KRS 205.540, and its associated bodies are attached to the Department for Medicaid Services for administrative and support purposes. The Advisory Council for Medical Assistance shall advise the secretary for health services and the commissioner for Medicaid services on the administration and operation of the Medical Assistance Program.

SECTION 12. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Commission for Children with Special Health Care Needs and the State Interagency Council for Services to Children with an Emotional Disability shall be the only statutory bodies attached to the cabinet that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, *interstate compact, or other statutory body, presently attached to the cabinet, shall issue administrative regulations but shall operate only in an advisory capacity.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

No corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, attached to or within the cabinet, shall expend funds, hire employees, issue grants, or otherwise engage in the normal administrative process of the cabinet. All of these bodies shall be provided administrative and support services by the cabinet.

SECTION 14. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Developmental Disabilities Planning Council is created within the cabinet.

(2) The Developmental Disabilities Planning Council is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the Developmental Disabilities Planning Council shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-four (24) members, of whom twelve (12) are representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973; the state agency that administers funds provided under the Education of the Handicapped Act; the state agency that administers funds provided under the Older Americans Act of 1965; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; the protection and advocacy system established under Public Law 101-496; and local agencies, nongovernmental agencies, and private, nonprofit groups concerned with services to persons with developmental disabilities.

(a) At least twelve (12) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 and who are not employees of a state agency that receives funds or provides services under this section. Of these members, at least four (4) members shall be persons with developmental disabilities, and at least four (4) members shall be the immediate relatives or guardians of persons with mentally impairing developmental disabilities meeting the conditions listed in this subsection. At least one (1) of these relatives or guardians shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability. At least one (1) member of the council shall represent and advocate for the interests and rights of disabled, newborn infants.

(b) Members not representing principal state agencies shall be appointed for a term of three (3) years, except the initial appointments shall be made in the following manner: four (4) members shall be appointed for a term of three (3) years, four (4) members shall be appointed for a term of two (2) years, and four (4) members shall be appointed for a term of one (1) year.

(c) The planning council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities.

(4) The Developmental Disabilities Planning Council shall develop jointly with the cabinet and any other agencies designated to administer or supervise the administration of the state plan as required by Part B of the Developmental Disabilities Act of 1984, Public Law 98-527, including the specification of priority services required by that plan; monitor, review, and evaluate, not less often than annually, the implementation of this plan; to the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities; and submit to the secretary of the cabinet any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports.

SECTION 15. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

When the Public Health Services Advisory Council is assigned responsibility for qualifying the Commonwealth for federal programs with representation and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create special subcommittees to these citizens' councils that meet federal requirements.

SECTION 16. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Families and Children, *the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet, the secretary for Natural Resources and Environmental Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, the secretary of the Labor Cabinet, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The secretary and other state officials with the approval of the secretary may designate alternatives or representatives to serve in their capacity as members of all boards, commissions, councils, institutes, and other similar bodies within or attached to the cabinet. The secretary or the secretary's designee shall be an ex officio member of all boards, committees, councils, institutes, and other similar bodies within or attached to the cabinet.

SECTION 18. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The secretary is authorized to create special task forces, technical advisory committees, and other citizens' panels as may be necessary to support the operations of the cabinet. No other officials of the cabinet shall be authorized to create citizens' panels associated with the cabinet, its programs, or suborganizational units, and the secretary shall not delegate this authority.

SECTION 19. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

All administrative regulations, acts, determinations, and decisions of and by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Public Health Services Advisory Council and the Advisory Council for Medical Assistance, shall remain in effect as the administrative regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

SECTION 20. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Public Health Services Advisory Council and the Advisory Council for Medical Assistance shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

SECTION 21. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The members of the Public Health Services Advisory Council shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of this citizens' council. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

SECTION 22. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the cabinet is authorized to purchase liability insurance for the protection of physicians, hospital administrators, and directors employed by the cabinet to protect them from liability for acts, omissions, and claims of medical malpractice arising in the course and scope of their employment of service to the cabinet.

(2) The secretary may purchase the type and amount of liability coverage deemed appropriate to best serve the cabinet's interest.

SECTION 23. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Section 24 of this Act:

(1) "Assistance program" means any program administered by the cabinet;

(2) "Benefit" means receipt of money, goods, or anything of pecuniary value from an assistance program;

(3) "False statement or misrepresentation" means a statement or representation knowingly made by a person to be false; and

(4) "Provider" means an individual, corporation, association, facility, or institution that is providing or has been approved to provide medical assistance to recipients under the Medical Assistance Program.

SECTION 24. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining the person's qualification to receive benefits under any assistance program.

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit, or possess a medical identification card or unique electronic authorization codes or numbers or

electronic personal identification numbers in any manner not authorized by law.

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that it is in violation of the law, knowingly aid or abet any person in obtaining benefits to which the person is not legally entitled, or in obtaining a benefit amount greater than that to which the person is fully entitled.

(5) No person shall misappropriate or attempt to misappropriate a Medicaid identification card or misappropriate other benefits from any program with which the person has been assigned responsibility, nor shall the person knowingly fail to report any of these activities when it is clearly in violation of the law.

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice.

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing it to be in violation of the law.

(8) The Attorney General on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section, and the Attorney General shall in undertaking these proceedings exercise all powers and perform all duties that a prosecuting attorney would otherwise perform or exercise.

SECTION 25. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

In any prosecution for the violation of Section 24 of this Act, it shall be a defense if the person relied on the advice of an employee or agent of the cabinet.

SECTION 26. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

For the purpose of enforcing the provisions of Section 24 of this Act and KRS 205.8451 to 205.8483 and of investigating any assistance program administered by the cabinet, the designated agents of the cabinet shall have the same access as peace officers to records maintained under KRS 17.150.

SECTION 27. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary for health services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:

(a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;

(b) Physicians who practice primary care, as defined in KRS 164.925, and who are licensed under KRS Chapter 311; and

(c) Nurses licensed under KRS Chapter 314.

(2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(3) No later than June 30, 1999, every health care or mental health professional licensed or certified under KRS Chapter 309, 311, 314, 319 or 335, on or after July 15, 1996, shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. Persons who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

SECTION 28. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the provisions of subsection (1), (2), or (7) of Section 24 of this Act shall be guilty of a Class A misdemeanor, unless the sum total of benefits received in excess of that to which the person was entitled at the time of the offense was committed is valued at or over one hundred dollars ($100), in which case it is a Class D felony.

(2) Any person who violates subsection (3) of Section 24 of this Act shall be guilty of a Class D felony.

(3) Any person who violates the provisions of subsections (4) to (5) of Section 24 of this Act shall be guilty of a Class C felony.

(4) Any person who violates the provisions of subsection (6) of Section 24 of this Act shall be guilty of a Class D felony, unless the purpose of the violation is to obtain ten thousand dollars ($10,000) or more, in which case it shall be a Class C felony.

(5) Any person who violates subsections (1) to (6) of Section 24 of this Act shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

(6) Any provider who violates subsections (1) to (6) of Section 24 of this Act shall, in addition to any other penalties provided by law, including the penalty set forth in subsection (5) of this section, forfeit and pay civil penalties of:

(a) Payment to the State Treasury's general revenue fund in an amount equal to three (3) times the amount of the benefits and payments to which the person was not entitled; and

(b) Payment to the State Treasury's general revenue fund of all reasonable expenses that the court determines have been necessarily incurred by the state in the enforcement of this section.

SECTION 29. KRS CHAPTER 194B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Families and Children; and

(2) "Secretary" means the secretary for families and children.

SECTION 30. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet is the primary state agency responsible for leadership in protecting and promoting the wellbeing of Kentuckians through the delivery of quality human services. Recognizing that children are the Commonwealth's greatest natural resource and that individuals and their families are the most critical component of a strong society, the cabinet shall deliver social services to promote their safety and security and preserve their dignity. The cabinet shall promote collaboration and accountability among local, public, and private programs to improve the lives of families and children. The cabinet also is to administer income supplement programs that protect, develop, preserve, and maintain families and children in the Commonwealth.

SECTION 31. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary for families and children and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(2) The secretary may delegate any duties of office to employees of the cabinet as the secretary deems necessary and appropriate, unless otherwise prohibited by statutes.

SECTION 32. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary. The Office of the Secretary for Families and Children may, in addition to the secretary for families and children, include other personnel as are necessary to direct and carry out the missions and goals of the cabinet, including a deputy secretary if deemed necessary by the secretary of the cabinet and upon approval of the Governor.

(2) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be responsible to the secretary. The Attorney General, on the request of the secretary, may designate the General Counsel as an assistant attorney general under the provisions of KRS 15.105.

(3) Office of Program Support. The Office of Program Support shall be responsible for providing administrative and management support, planning, and appraisal of need services within the Cabinet for Families and Children. All personnel, fiscal, budgetary, and facility management functions of the cabinet shall be vested in the Office of Program Support. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the Office of Program Support under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(4) Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(5) Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner is under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(6) Office of Family Resource and Youth Services Centers. The Office of Family Resources and Youth Services Centers shall be responsible for the administration, management, and operations of the Family Resources and Youth Services Centers Program. The Office of Family Resources and Youth Services Centers shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(7) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including, but not limited to, quality assurance, quality control, and outcome assessment; a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies; contract monitoring; and professional development and training. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(8) Office of Technology Services. The Office of Technology Services shall develop and maintain technology and information management systems in support of all units of the cabinet. The Office of Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director for technology services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director for technology services shall exercise authority of the Office of Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

SECTION 33. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and departments not established in 1974 Ky. Acts ch. 74, Art. VI and this Act, and shall organize the cabinet into the offices, divisions, regions, districts, and other administrative units as the secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the cabinet.

(2) The secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create the positions and employ the necessary personnel in the positions to enable the cabinet to fulfill all functions assigned to it. The secretary shall designate a person to act as deputy for the secretary in the exercise of duties in the secretary's absence.

(3) The secretary shall, with the approval of the Governor, elect coverage for employees of the cabinet under the unemployment insurance law when required by federal law.

SECTION 34. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Institute for Aging or the Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of the secretary, and the secretary shall not delegate this authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

SECTION 35. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall develop and promulgate administrative regulations that protect the confidential nature of all records and reports of the cabinet that directly or indirectly identify a client or patient or former client or patient of the cabinet and that insure that these records are not disclosed to or by any person except as, and insofar as:

(a) The person identified or the person's guardian, if any, shall give consent; or

(b) Disclosure may be permitted under state or federal law.

(2) The cabinet may share pertinent information from within the agency's records on clients, current and former clients, recipients, and patients as may be permitted by federal and state confidentiality statutes and regulations governing release of data with other public, and quasi-public, and private agencies involved in providing services to current or former clients or patients subject to confidentiality agreements as permitted by federal and state law if those agencies demonstrate a direct, tangible, and legitimate interest in the records. In all instances, the individual's right to privacy is to be respected.

SECTION 36. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to utilize and promote available or potential community resources for the delivery of services and shall, when it deems appropriate, contract for services with local, community, and private agencies when the services would not otherwise be available without cost. The cabinet and local, community, and private agencies operating on contract with the cabinet may charge for services rendered when this would be in accordance with applicable state law.

SECTION 37. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The secretary shall arrange for the development of a cost allocation plan by the cabinet. The cost allocation shall be developed in accordance with generally recognized accounting practices and shall make provisions for the distribution of operational and administrative costs of all organizational units of the cabinet to all programs operated by the cabinet that receive services or are otherwise benefited by the operations of those organizational units.

SECTION 38. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) A Council for Families and Children is created within the cabinet.

(a) The council shall advise the secretary for families and children, the commissioner for social insurance, the commissioner for social services, and other officials of the Commonwealth on policy matters relating to the human service needs.

(b) The council shall be composed of no more than twenty-one (21) citizen members appointed by the Governor. Members of the council shall be chosen to broadly represent public interest groups concerned with social insurance and social service programs operated by the Commonwealth, professionals involved in the delivery of human services, minority groups, the poor, the disadvantaged, recipients of human services provided by the state, and the general public. The Governor shall appoint the chair of the council. The secretary for families and children, the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council, and the commissioners for social insurance and social services shall be staff directors for, and secretaries to, the council. The council shall meet at least quarterly and on other occasions as may be necessary, on call of the secretary for families and children. A majority of appointed members shall constitute a quorum.

(2) An Institute for Aging is created within the cabinet.

(a) The institute shall advise the secretary for families and children and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.

(b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for families and children shall be a nonvoting, ex officio member of, staff director for, and secretary to, the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for families and children. A majority of the appointed members shall constitute a quorum.

SECTION 39. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

No corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, attached to or within the cabinet, shall expend funds, hire employees, issue grants, or otherwise engage in the normal administrative processes of the cabinet. All of these bodies shall be provided administrative and support services by the cabinet.

SECTION 40. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

When the Institute for Aging and the Council for Families and Children are assigned a responsibility for qualifying the Commonwealth for federal programs with representations and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create special subcommittees to these citizens' bodies that meet federal requirements.

SECTION 41. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet, the secretary for Natural Resources and Environmental Protection, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

SECTION 42. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The secretary and other state officials with the approval of the secretary may designate alternates or representatives to serve in their capacity as members of all boards, committees, councils, institutes, and other similar bodies within or attached to the cabinet, and the secretary or the secretary's designee shall be an ex officio member of all boards, committees, councils, institutes, commissions, and other similar bodies within or attached to the cabinet.

SECTION 43. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The secretary is authorized to create special task forces, technical advisory committees, and other citizens' panels as may be necessary to support the operations of the cabinet. No other officials of the cabinet shall be authorized to create citizens' panels associated with the cabinet, its programs, or suborganzational units, and the secretary shall not delegate this authority.

SECTION 44. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

All administrative regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Institute for Aging, shall remain in effect as administrative regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

SECTION 45. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The Institute for Aging and the Council for Families and Children shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

SECTION 46. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The members of the Institute for Aging and the Council for Families and Children shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

SECTION 47. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet shall make an annual report to the Governor, the General Assembly, and the Chief Justice. The report shall be tendered not later than December 1 of each year and shall include information for the pervious fiscal year. The report shall include, but not be limited to, the following information:

(1) The number of children under an order of dependent, status, public, or voluntary commitment to the cabinet, according to: permanency planning goals, current placement, average number of placements, type of commitment, and the average length of time children remain committed to the cabinet;

(2) The number of children in the custody of the cabinet in the following types of residential placements, the average length of stay in these placements, and the average number of placements experienced by these children: family foster homes, private child care facilities, and placement with biological parent or person exercising custodial control or supervision;

(3) The number of children in the custody of the cabinet eligible for adoption, the number placed in an adoptive home, and the number ineligible for adoption and the reasons therefor;

(4) The cost in federal and state general funds to care for the children defined in subsections (1) and (2) of this section, including the average cost per child for each type of placement, direct social worker services, operating expenses,

training, and administrative costs; and

(5) Any other matters relating to the care of foster children that the cabinet deems appropriate and that may promote further understanding of the impediments to providing permanent homes for foster children.

SECTION 48. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The Cabinet for Families and Children shall provide professional development for staff employed by the cabinet or by local public agencies in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each staff person who is employed by the cabinet or by a local public agency and who works with children or with families shall successfully complete the professional development program in order to remain assigned to child or family programs. The cabinet shall specify the manner of professional development and related matters by administrative regulation.

SECTION 49. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

As used in Section 50 of this Act:

(1) "Assistance program" means any program administered by the cabinet.

(2) "Benefit" means receipt of money, goods, or anything of pecuniary value from an assistance program; and

(3) "False statement or misrepresentation" means a statement or representation knowingly made by a person to be false.

SECTION 50. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining the person's qualification to receive benefits under any assistance program.

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(3) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that it is in violation of the law, knowingly aid or abet any person in obtaining benefits to which the person is not legally entitled, or in obtaining a benefit amount greater than that to which the person is fully entitled.

(5) No person shall misappropriate or attempt to misappropriate a food stamp authorization to purchase card, food stamp identification card, or misappropriate other benefits from any program with which the person has been assigned responsibility, nor shall the person knowingly fail to report any of these activities when it same is clearly in violation of the law.

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice.

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing it to be in violation of the law.

(8) The Attorney General on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section, and the Attorney General shall in undertaking these proceedings exercise all powers and perform all duties that the prosecuting attorney would otherwise perform or exercise.

SECTION 51. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

In any prosecution for the violation of Section 50 of this Act, it shall be a defense if the person relied on the advice of an employee or agent of the cabinet.

SECTION 52. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

For the purpose of enforcing the provisions of Section 50 of this Act and of investigating any assistance program administered by the cabinet, the designated agents of the cabinet shall have the same access as peace officers to records maintained under KRS 17.150.

SECTION 53. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary for families and children shall develop an initial training course and continuing education courses for employees of the Department for Social Services concerning the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(2) Each person employed by the Department for Social Services who provides supervisory or direct service at the local, district, or state level shall successfully complete the initial training course and, at least once every two (2) years, the continuing education course developed under subsection (1) of this section.

SECTION 54. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary for families and children shall promulgate administrative regulations under KRS Chapter 13A setting forth the requirements for initial training courses and continuing education courses for staff of agencies providing protective shelter services for victims of domestic violence. The components of the training shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(2) Each agency providing protective shelter services for victims of domestic violence shall develop and provide initial training courses and, at least once every two (2) years; continuing education courses which comply with the requirements developed pursuant to subsection (1) of this section, for staff of the agency.

SECTION 55. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

As used in Sections 55 to 58 of this Act:

(1) "Cabinet" means the Cabinet for Families and Children;

(2) "Council" means the Alzheimer's Disease and related Disorders Advisory Council;

(3) "Dementia" means Alzheimer's disease and related dementia illnesses and disorders; and

(4) "Office" means the Office on Alzheimer's Disease and Related Disorders.

SECTION 56. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The Office of Alzheimer's Disease and Related Disorders is established within the cabinet. The purpose of the office is to oversee information and resources related to policy and services affecting the sixty thousand (60,000) residents of Kentucky with dementia, and the caregivers and families of the residents.

(2) The director of the office shall be a full-time, permanent employee and shall be responsible for the staffing and operational details of the office. A report on the start-up and implementation of the office shall be made to the Interim Joint Committee on Health and Welfare by September 30, 1998, and on a quarterly basis thereafter.

(3) The office shall:

(a) Enhance the quality of life for persons affected by dementia and for their caregivers;

(b) Recommend the delivery of services in the most effective and efficient manner possible to facilitate the needs of people with dementia and their caregivers, after consultation with other agencies of state government that work with dementia-related illness;

(c) Determine ways the Commonwealth may secure additional federal and private funding to provide additional services and programs through a coordinated effort;

(d) Apply for any public or private funding relating to dementia that will enhance the office's abilities to perform its duties under this section;

(e) Promote public and professional awareness and education of dementia and access to needed services and programs;

(f) Oversee and receive reports from the Alzheimer's Disease and Related Disorders Advisory Council; and

(g) Coordinate and oversee the implementation of the recommendations of the 1995 Governor's Task Force on Alzheimer's Disease and Related Disorders.

SECTION 57. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The Alzheimer's Disease and Related Disorders Advisory Council is created. The council shall report directly to the office.

(2) The council shall be comprised of a minimum of fifteen (15) members appointed by the Governor. Three (3) members shall represent agencies of state government dealing with dementia, three (3) shall represent local health departments, one (1) shall represent the University of Kentucky Alzheimer's Disease Research Center at the Sanders-Brown Center on Aging, at least one (1) shall be appointed from each of the chapters of the Alzheimer's Disease and Related Disease Association that serve the Commonwealth, and the remainder shall represent consumers, health care providers, and the medical research community. Members who are not state employees shall be reimbursed for necessary and actual expenses. The council shall meet quarterly. A majority of the members shall constitute a quorum for the transaction of the council's business.

(3) The council shall:

(a) Elect its own chairperson and establish other officers and subcommittees as needed to execute the duties of the council;

(b) Adopt bylaws and operate under its bylaws;

(c) Select the director of the office;

(d) Establish and evaluate goals and outcomes for the office that may facilitate treatment and care of persons with dementia;

(e) Assist with the dissemination of information about the availability of program materials, education materials, and curriculum guides; and

(f) Prepare a report of its activities, at least annually, for submission to the office.

(4) The office shall provide requested personnel to assist the council in fulfilling its responsibilities.

SECTION 58. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations under KRS Chapter 13A sufficient to implement Sections 55 to 58 of this Act.

SECTION 59. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the provisions of subsections (1), (2), and (7) of Section 50 of this Act shall be guilty of a Class A misdemeanor, unless the sum total of benefits received in excess of that to which the person was entitled at the time the offense was committed is valued at or over one hundred dollars ($100), in which case it is a Class D felony.

(2) Any person who violates subsection (3) of Section 50 of this Act shall be guilty of a Class D felony.

(3) Any person who violates the provisions of subsections (4) and (5) of Section 50 of this Act shall be guilty of a Class C felony.

(4) Any person who violates the provisions of subsection (6) of Section 50 of this Act shall be guilty of a Class D felony, unless the purpose of the violation is to obtain ten thousand dollars ($10,000) or more, in which case it shall be a Class C felony.

(5) Any person who violates subsections (1) to (6) of Section 50 of this Act shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

Section 60. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for ***Health Services, the Cabinet for Families and Children***[~~Human Resources~~], the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Cabinet, the Labor Cabinet, the commissioner of the Department of Personnel, the secretary of the Governor's Executive Cabinet, the State Budget Director, the Governor's Chief of Staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 61. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order, except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
        (1) Kentucky Board of Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Office of Development.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.
4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.
5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
7. Cabinet for ***Families and Children***[~~Human Resources~~]:
(a) [~~Department for Health Services.~~
~~(b)~~]Department for Social Insurance.
(***b***)[~~(c)~~]Department for Social Services.
[~~(d) Department for Medicaid Services.~~
~~(e) Department for Mental Health and Mental Retardation Services.~~
~~(f) Commission for Children with Special Health Care Needs.~~]
(c)[~~(g)~~]Public Assistance Appeals Board.
(d) Office of the Secretary.

[~~(h) Office of Administrative Services.~~
~~(i) Office of Communications.~~]
(e)[~~(j)~~] Office of General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
[~~(k) Office of Inspector General.~~
~~(l) Office of Policy and Budget.~~]
(i)[~~(m)~~] Office of the Ombudsman.
8. *Cabinet for Health Services.*
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.
9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
10.[~~9.~~] Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11.[~~10.~~] Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

12.[~~11.~~] Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

13.[~~12.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.

(a) Kentucky Community Service Commission.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

7. Department of Veterans' Affairs.

8. Kentucky Commission on Military Affairs.

Section 62. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education, Arts, and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for ***Health Services***[~~Human Resources~~].

(8) ***Cabinet for Families and Children.***

(9) Finance and Administration Cabinet.

(10)[~~(9)~~] Tourism Cabinet.

(11)[~~(10)~~] Revenue Cabinet.

(12)[~~(11)~~] Labor Cabinet.

(13)[~~(12)~~] Cabinet for Workforce Development.

Section 63. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) ***Cabinet for Health Services***~~[Health Policy Board]~~

1. ***Office of Certificate of Need***

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b.~~[2.]~~ Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for ***Families and Children***~~[Human Resources]~~

1. ~~[Department for Employment Services~~

~~a. Unemployment insurance hearings conducted under authority of KRS Chapter 341~~

~~2. Department for Health Services~~

~~a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404~~

~~3.~~]Department for Social Services

a. Supervised placement revocation hearings conducted under authority of KRS ***Chapter***~~[Chapters]~~ 630~~[and 635]~~

2. Department for Social Insurance

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department for Juvenile Justice

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 635

(e) Labor Cabinet

1. Department of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet

1. Department for Surface Mining Reclamation and Enforcement

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) ***Workforce Development Cabinet***

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(j) Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k)[~~(j)~~] State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; ***or***

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 64. KRS 15.290 is amended to read as follows:

(1) There is hereby established in the Department of Law the Child Support Enforcement Commission which shall consist of nine (9) members as prescribed below:

(a) The Attorney General, or ***a***[~~his~~] designee, who shall also serve as chairman;

(b) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], or his designee, who shall also serve as vice chairman;

(c) The director of the Administrative Office of the Courts, or his designee;

(d) The director of the Division ***of***[~~for~~] Child Support Enforcement within the Cabinet for ***Families and Children***[~~Human Resources~~]; and

(e) The remaining five (5) members shall be appointed by the Governor for terms of four (4) years, except that the initial appointments shall be made in the following manner: One (1) member for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Each member shall serve until a successor is named and any appointment, due to vacancy, shall be for the unexpired term. The remaining five (5) members shall be appointed in the following manner: three (3) members from a list of nine (9) nominees submitted by the Kentucky County Attorney Association, with one (1) of the three members representing either a first class or urban-county government, and two (2) citizen-at-large members.

(2) The secretary of the cabinet shall reimburse to the Department of Law such an amount as incurred related to the function of the commission. The secretary shall provide such information as may be requested by the commission.

(3) The commission shall meet at least quarterly and may meet additional times as may be deemed necessary by the chairman.

(4) Reimbursement for actual travel expenses shall be paid by the Department of Law for commission members, if members are not otherwise eligible for such reimbursement from their respective agency.

(5) The commission shall have the following responsibilities:

(a) Advise the Governor on any issue related to the child support program;

(b) Advise the Cabinet for ***Families and Children***[~~Human Resources~~] on any issue related to the child support program;

(c) Advise the Department of Law on any issue related to the child support program;

(d) Advise the Administrative Office of the Courts on any issue related to the child support program;

(e) Provide a regular forum for all parties involved in the child support program to address any aspect of the administrative or judicial process;

(f) Develop and prepare reports and recommendations related to administrative procedures, prosecution, judicial procedures, state or federal legislation; or any other matters which might improve program effectiveness and efficiency; and

(g) Initiate recommendations to facilitate interaction between local officials and the cabinet.

(6) The commission shall prepare and issue an annual report not later than August 15 of each year for the preceding fiscal year which includes a performance assessment for all aspects of the program. The report shall include recommendations to improve performance and service delivery. The report shall be submitted to the Governor and the Legislative Research Commission. The first report shall be due August 15, 1989.

(7) Nothing in this section shall be construed as modifying the designation of the single state agency as required under the Federal Title IV-D plan.

Section 65. KRS 15.333 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall develop in conjunction with the Cabinet for ***Families and Children***[~~Human Resources~~] an educational program on human immunodeficiency virus infection and acquired immunodeficiency virus syndrome of not more than four (4) hours to be delivered by the Department of Criminal Justice Training to all law enforcement officers subject to the provisions of KRS 15.440 or 61.300. The educational program shall be completed annually.

(2) The educational program may be a part of any continuing education program offered by the Department of Criminal Justice Training.

Section 66. KRS 15.706 is amended to read as follows:

(1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.

(2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], the commissioner of the Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.

(3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.

(4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.

(5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.

(6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.

(7) The public report shall not contain the name or identifying information of a victim or person not formally charged with the commission of child sexual abuse. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.

(8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

Section 67. KRS 15.910 is amended to read as follows:

(1) The state board shall be composed of the following members:

(a) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], the secretary of the Finance and Administration Cabinet, the chief state school officer, the commissioner of the State Police, and the Attorney General, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

Section 68. KRS 15.942 is amended to read as follows:

The Justice Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for ***Families and Children***[~~Human Resources~~] shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health care professionals needed for implementation of training programs.

Section 69. KRS 15.944 is amended to read as follows:

The Attorney General, Justice Cabinet, Administrative Office of the Courts, and Cabinet for ***Families and Children***[~~Human Resources~~] shall provide an in-service training program for Commonwealth's and county attorneys and their assistants in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each Commonwealth's and county attorney and each assistant Commonwealth's and county attorney shall attend the in-service training.

Section 70. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a)[~~(1)~~] Prevention of juvenile crime;

(b)[~~(2)~~] Identification of juveniles at risk of becoming status or public offenders and early intervention strategies for these children;

(c)[~~(3)~~]Providing services to law enforcement, prosecution, victims, defense attorneys, and the public relating to juvenile crime, its prevention, detection, trial, punishment, and rehabilitation, and services for youth adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(d)[~~(4)~~] The operation of or contracting for the operation of preadjudication facilities for children charged with public offenses;

(e)[~~(5)~~]The operation of or contracting for the operation of postadjudication treatment facilities for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(f)[~~(6)~~]The operation of or contracting for the operation of preadjudication alternatives to detention and follow-up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs;

(g)[~~(7)~~] The operation of or contracting for the operation of postadjudication alternatives to detention and follow-up programs, including but not limited to community based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of detention while achieving solutions to the child's problems and ensuring public safety;

(h)[~~(8)~~] The operation or contracting for the operation of by the department, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(i)[~~(9)~~] Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(j)[~~(10)~~] Conducting research and comparative experiments to find the most effective means of:

1.[~~(a)~~] Preventing delinquent behavior;

2.[~~(b)~~] Identifying predelinquent youth;

3.[~~(c)~~] Preventing predelinquent youth from becoming delinquent;

4.[~~(d)~~] Assessing the needs of predelinquent and delinquent youth;

5.[~~(e)~~] Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6.[~~(f)~~] Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

7.[~~(g)~~] Keeping the department, the educational community, police, prosecutors, the courts, and the public abreast of the latest programs, technology, counseling tools, and other aspects of juvenile counseling, correction, and treatment; ***and***

(h)[~~(11)~~] Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2)[~~(12)~~] The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3)[~~(13)~~] The Department of Juvenile Justice may contract with the cabinet for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments.

(4)[~~(14)~~] The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall provide a formulation of and recommendations for meeting the requirements of this section not less than semiannually to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for ***Families and Children***[~~Human Resources~~], the Interim Joint Committees on Judiciary and Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and Appropriations and Revenue committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall meet not less than quarterly. The advisory board shall be chaired by a private citizen member appointed by the Governor. The advisory board shall consist of one (1) member of each of the following:

1. Justice Cabinet;
2. Department of Juvenile Justice;
3. Cabinet for ***Families and Children***[~~Human Resources~~];
4. Department for Medicaid Services;
5. Department of Education;
6. Department of Public Advocacy;
7. Administrative Office of the Courts;
8. Workforce Development Cabinet;
9. Attorney General;
10. Kentucky Developmental Disabilities Council;
11. Circuit Judges Association;
12. District Court Judges Association;
13. Commonwealth's Attorneys Association;
14. County Attorneys Association;
15. County Judge/Executives Association;
16. A person eighteen (18) to twenty-five (25) years of age not associated with any other group listed in this paragraph;
17. A person from the business community not associated with any other group listed in this paragraph;
18. A parent not associated with any other group listed in this paragraph;
19. A youth advocate not associated with any other group listed in this paragraph;
20. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
21. A local school district special education administrator not associated with any other group listed in this paragraph;

22. A peace officer not associated with any other group listed in this paragraph; and

23. A college or university professor specializing in law, criminology, corrections, or similar discipline with an interest in juvenile corrections programs.

Section 71. KRS 15A.190 is amended to read as follows:

(1) The Justice Cabinet in consultation with the Cabinet for ***Families and Children***[~~Human Resources~~], the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, or any other particular area of criminal activity deemed by the secretary of justice to require research as to its frequency.

(2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 1979.

Section 72. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and ***KRS*** 15A.990:

(1) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for ***Families and Children***[~~Human Resources~~] and other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(3) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed exclusively by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners; and

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.

Section 73. KRS 16.095 is amended to read as follows:

(1) The Justice Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for ***Health Services***[~~Human Resources~~] on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, nonreceipt of allowance does not exclude a law enforcement officer from the training required in this section.

(2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he shall be suspended from further service as an officer until he successfully completes the required training.

Section 74. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for ***Health Services; Cabinet for Families and Children***[~~Human Resources~~]; Transportation Cabinet; Department of Corrections; and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal ***the juvenile's or the juvenile's***[~~his or his~~] parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in the records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice.

Section 75. KRS 17.460 is amended to read as follows:

(1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~] if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet which shall include information the Justice Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.

(b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~] in the jurisdiction of the law enforcement agency.

(c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court designated worker with jurisdiction for placement determination.

(d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.

(5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 76. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates subsection (4) of KRS 17.165 may be liable for license revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for ***Families and Children***[~~Human Resources~~]; and

(b) In addition to penalties listed in this subsection, any child-care center which violates subsection (4) of KRS 17.165 shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 77. KRS 18A.030 is amended to read as follows:

(1) The commissioner shall be the executive and administrative head of the department and shall supervise and control all examinations and work of the department. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the commissioner shall appoint and supervise the staff needed in the department to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the commissioner shall, with the aid of his staff:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for ***in KRS 18A.005 to 18A.200***[~~herein~~];

(k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(l) Make a report and submit the same to the board, the Legislative Research Commission and the Governor not later than October first of each year; ***and***

(m) Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.

(3) The commissioner on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The commissioner shall keep records relative to employee turnover and report to the board, the Governor and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor and the Legislative Research Commission.

(5) The commissioner shall provide to each new state employee and to each state employee, classified or otherwise, on an

annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for ***Health Services***[~~Human Resources~~] and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures and referral services.

Section 78. KRS 18A.180 is amended to read as follows:

(1) Subject to the approval of the board, the commissioner may enter into agreements with any municipality or other political subdivision of the Commonwealth to furnish services and facilities of the department to ***the***[~~such~~] municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the Commonwealth are hereby authorized to enter into ***these***[~~such~~] agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18A.005 to 18A.200.

(3) The commissioner may, upon the request of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and upon the approval of the board, furnish merit system services to "local" departments of health.

Section 79. KRS 27A.080 is amended to read as follows:

(1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

(2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.

(3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for ***Families and Children***[~~Human Resources~~], the Justice Cabinet, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 80. KRS 39.407 is amended to read as follows:

In performing his duties under this chapter, the adjutant general, with approval of the Governor, is authorized and empowered:

(1) To prepare a comprehensive plan and program for the disaster and emergency response of this state, such plan and program to be integrated into and coordinated with the disaster and emergency response plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs by areawide organizations, metropolitan governments, counties, and cities of this state for disaster and emergency response, such plans to be integrated into and coordinated with the disaster and emergency response plan and program of this state to the fullest possible extent;

(2) In accordance with such plan and program for the disaster and emergency response of this state, to ascertain the requirements of the state and of the counties and cities thereof for food or clothing or other necessities of life in the event of disaster or attack and to plan for and procure supplies, medicines, materials, and equipment, and to use and employ from time to time any of the property, services, and resources within the state, for the purposes set forth in this chapter; to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of disaster and emergency response organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of disaster and emergency response personnel in time of need;

(3) To cooperate with the President of the United States, the chiefs of the Armed Forces, and the civil preparedness agency of the United States, and officers and agencies of other states in matters pertaining to the disaster and emergency response of the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies, for any action looking to civil preparedness, including the direction or control of blackouts and practice blackouts, mobilization of disaster and emergency response forces, and other tests and exercises, warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith, the effective screening or extinguishing of all lights and lighting devices and appliances, the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services, the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack, public meetings or gatherings and the evacuation and reception of the civilian population;

(4) To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this chapter, and with the orders, rules, and regulations made pursuant thereto;

(5) To employ such measures and give such directions to the secretary for ***health services***~~[human resources]~~ or the local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this chapter, or with the findings or recommendations of such secretary or boards of health by reason of conditions arising from disasters, emergency situations, enemy attack, or the threat thereof or otherwise;

(6) To utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof; and all such officers and agencies shall cooperate with and extend their services and facilities to the director as he may request;

(7) To establish agencies and offices and to appoint executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of this chapter;

(8) To delegate any authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(9) On behalf of this state, pursuant to executive order of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide basis or local county or city basis or with a neighboring state or province of a foreign country. Such mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies, engineering services, emergency housing, police services, national or state guards while under the control of the state, health, medical, and related services, firefighting, rescue, transportation, and construction services and equipment, personnel necessary to provide or conduct these services, and such other supplies, equipment, facilities, personnel, and services as may be needed, the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, and police units and health units, and on such terms and conditions as are deemed necessary;

(10) To sponsor and develop mutual aid plans and agreements among the areawide organizations, metropolitan governments, counties, and cities of the state, similar to the mutual aid arrangements with other states referred to above;

(11) To recommend to the state planning committee the allocation of such funds as may be necessary to the Department of Local Government to be distributed to the area development districts for the development of emergency response plans and programs for the local governments and the area served by the area development districts, or a functional committee thereof.

Section 81. KRS 42.560 is amended to read as follows:

(1) There is~~[hereby]~~ established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund"~~[herein]~~ referred to ***in KRS 42.560 to 42.574*** as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management and Economic Analysis and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for ***Families and Children***~~[Human Resources]~~ with fifty percent (50%) of the interest allocated to weatherization services to low income households and fifty percent (50%) of the interest allocated to low income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 82. KRS 42.566 is amended to read as follows:

(1) The funds appropriated by the General Assembly shall be expended in a manner consistent with the judgments and settlements, as amended, which produced the oil overcharge refunds, as follows:

(a) The sum of five hundred thousand dollars ($500,000) or eight percent (8%) of the amount appropriated each fiscal year, whichever is greater, shall be distributed annually to the Natural Resources and Environmental Protection Cabinet for expenditure in the Institutional Conservation Program established pursuant to Part G of Title III of the Energy Policy and Conservation Act, 42 U.S.C. Section 6371 et seq. The source of these funds shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No. 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v. Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest accumulated thereon.

(b) The balance of the trust funds appropriated for expenditure in any fiscal year shall be distributed to the Cabinet for ***Families and Children***[~~Human Resources~~] and allocated as follows:

1. Forty percent (40%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for weatherization of low-income households established pursuant to Part A of the Energy Conservation and Existing Buildings Act of 1976, 42 U.S.C. Section 6861 et seq.; and
2. Sixty percent (60%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for energy crisis or prevention services for low-income households established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. Section 8621 et seq.

Section 83. KRS 42.665 is amended to read as follows:

(1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Finance and Administration Cabinet.

(2) The membership of the board shall consist of the following:

(a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;

(b) The commissioner of the Department for ***Public*** Health[~~ Services~~], or the commissioner's designee;

(c) The commissioner of the Department of Education, or the commissioner's designee;

(d) The commissioner of the Kentucky State Police, or the commissioner's designee;

(e) The Kentucky state fire marshal, or the fire marshal's designee;

(f) The executive director of the Division of Disaster and Emergency Services, or the executive director's designee;

(g) The Attorney General, or the Attorney General's designee;

(h) One (1) representative of local community crisis response teams appointed by the Governor;

(i) Four (4) members appointed by the Governor to represent mental health disciplines;

(j) Two (2) members appointed by the Governor to represent emergency services disciplines; and

(k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board.

(3) All board members appointed pursuant to subsections (2)(h) to (2)(k) of this section shall be approved members of the existing community crisis response team.

(4) All board members appointed pursuant to subsections (2)(h) to (2)(k) of this section shall have demonstrated a commitment to the provision of community crisis response services.

(5) The members of the board appointed by the Governor shall serve for two (2) years, and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.

(6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.

(7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.

(8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 42.670(7), nothing in KRS 42.660 to 42.680 shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

Section 84. KRS 45.236 is amended to read as follows:

Notwithstanding the provisions of KRS 45.229 and notwithstanding any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any social security appropriation, made available for expenditure by the Cabinet for ***Families and Children***[~~human resources~~] in the administration of its child welfare functions for the first fiscal year of each biennium, remaining at the end of ***that***[~~such~~] fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion shall lapse to the general expenditure fund.

Section 85. KRS 45.850 is amended to read as follows:

(1) Appropriations for the capital construction and for the operating budget of a nuclear waste disposal site owned by the Commonwealth shall be set forth as a major program cost in the executive budget document for the Natural Resources and Environmental Protection Cabinet.

(2) Appropriations for the regulating and monitoring of a nuclear waste disposal site owned by the Commonwealth shall be set forth as a major program cost in the executive budget document for the Cabinet for ***Health Services***[~~Human~~

~~Resources~~]. Monitoring and water sampling and analyses shall be maintained and budgeted for at a level to provide frequent and continuing evidence of the safety of the site.

(3) Operating costs associated with the daily maintenance of the site in excess of allocations budgeted to the Natural Resources and Environmental Protection Cabinet, regulating and monitoring costs associated with normal surveillance of the site in excess of allocations budgeted to the Cabinet for ***Health Services***[~~Human Resources~~] and costs associated with an emergency at the site so declared by the Governor shall be deemed necessary governmental expenses.

(4) In the event a request for funds is made pursuant to subsection (3) of this section, a copy of ***the***[~~such~~] request and the justification for additional funds shall be forwarded to the office of the Legislative Research Commission and to the Governor at the time the request is made but no later than fifteen (15) days prior to the actual expenditure of additional funds. The Legislative Research Commission or its designated subcommittee may request further explanation of the need for additional funds.

(5) Subsections (3) and (4) of this section shall apply only to sites located in the Commonwealth prior to July 15, 1980.

Section 86. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the "commission." It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

(a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation[~~ or Human Resources~~] Cabinet***, the Cabinet for Families and Children, or the Cabinet for Health Services***, appointed by the Governor, or their respective designees;

(b) The state budget director or his designee;

(c) The commissioner of the Department of Information Systems;

(d) The State Librarian or his designee;

(e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;

(f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

(g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

(h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

(i) The executive director of the Kentucky Authority for Educational Television;

(j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

(k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

(a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission

meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsection (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsection (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 87. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the "council," to the Kentucky Information Resources Management Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Resources Management Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-six (26)***[~~twenty-five (25)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for ***Health Services and Families and Children***[~~Human Resources~~] or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of

the Kentucky League of Cities;

17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;

19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;

20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;

21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 88. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor and the Superintendent of Public Instruction, the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education and humanities	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for ***health services***~~[human resources]~~	20,000
Secretary for families and children	***20,000***
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for social insurance	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 89. KRS 62.170 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees or deputies of the Commonwealth of Kentucky, including all judges, clerks and employees of the Court of Justice, including all other members of boards or commissions or employees of ***those***~~[such]~~ boards or commissions, and including all superintendents, receivers or employees of penal or eleemosynary institutions managed or directed by the Justice Cabinet, ***the*** Cabinet for ***Health Services, the Cabinet for Families and Children,***~~[Human Resources]~~ or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties

and responsibilities indicated by the personnel classification schedules of the Department of Personnel and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. ***The***[~~Such~~] bonds may be written with or without cosureties. Further, ***the***[~~such~~] bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Department of Personnel and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 90. KRS 64.625 is amended to read as follows:

Physicians employed by county, city-county, and district health departments may, upon written recommendation of the hiring and paying authorities expressly approved in writing by the secretary for ***health services***[~~human resources~~], receive compensation in excess of, and without regard to, any limitation imposed by any existing statute, as employees of local health units. Such rates shall be based upon studies of the duties and responsibilities of the positions and upon a comparison for rates being paid for similar or comparable services elsewhere. The secretary for ***health services***[~~human resources~~] may also take into consideration other appropriate factors, including the scarcity of physicians qualified for public health work and the availability of local funds therefor.

Section 91. KRS 65.710 is amended to read as follows:

In order to enable cities and counties to fulfill their obligations regarding the public health, safety, and welfare***,*** the General Assembly does hereby allow cities and counties to contract with private persons, partnerships, or corporations for providing ambulance service to the residents of such cities and counties subject to the following conditions:

(1) ***These***[~~All such~~] contracts must be in writing and must be approved by the city council or board of aldermen if a city is party thereto, or by the fiscal court in case a county is party thereto.

(2) No contract shall be made with an ambulance service or other organization or person unless ***the***[~~such~~] contract shall stipulate that at least one (1) person on each ambulance run shall possess currently valid emergency medical technician certification.

(3) All contracts made with any ambulance service or other organization or person shall stipulate that all vehicles used for operation of the service comply with vehicle and equipment ***administrative*** regulations issued by the Cabinet for ***Health Services***[~~Human Resources~~].

(4) All contracts shall include the stipulation that at least two (2) trained persons, one (1) driver and one (1) attendant, shall be carried on each ambulance for each ambulance call which is covered by ***the***[~~such~~] contract.

(5) No contract shall be made for a period of time greater than one (1) year.

(6) The vehicle, equipment, training, and personnel requirements of subsections (2), (3), and (4) of this section shall also apply to the operation of an ambulance service by a city or a county or by a city and a county jointly.

(7) No provisions of this section shall be construed as to limit the power of any city or county to contract for or operate ambulance services under requirements which are stricter than those of this section, or to require insurance, or bonding of contractors, provided ***these***[~~such~~] provisions are not in conflict with the requirements of this section.

Section 92. KRS 67.082 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 150.370, 525.130, or any other statute that may be in conflict herewith, any county fiscal court may, whenever an epidemic or potential epidemic of a disease transmissible to man and domestic animals exists or is threatened in any species of wildlife, declare all or any portion of ***that***[~~said~~] county to be an epidemic area. Following ***a***[~~such~~] declaration***,*** the fiscal court may, with approval of the Cabinet for ***Health Services***[~~Human Resources~~] and ***the*** Department of Fish and Wildlife Resources conduct control programs, including population reduction programs, against any species of wildlife including, but not limited to, red and gray foxes, skunks and rodents which may be serving as reservoirs and/or vectors of any disease transmissible to human beings and/or domestic animals including but not limited to rabies, leptospirosis, salmonellosis and Rocky Mountain spotted fever. ***These***[~~Such~~] control programs may include but shall not be limited to hunting, trapping, vaccination and use of poisons. Technical and operational assistance for ***the***[~~such~~] programs shall be made available by the Cabinet for ***Health Services***[~~Human Resources~~], the Department of Fish and Wildlife Resources, and the Department of Agriculture. A control program established under authority of this section may be conducted by the individual or joint action of the referred-to state agencies, the local health department or individual property owners designated as agents of said cabinets and departments. In the event poisonous baits are used to control an outbreak of rabies in wildlife, ***those***[~~such~~] programs shall be under the direction of the Cabinet for ***Health Services***[~~Human Resources~~]. All pet animals in the area shall be quarantined for the duration of

the program by action of the local board of health. ***These***[~~Such~~] programs shall be regulated to provide specific identification of bait station locations, daily check of each bait station, and positive pickup and destruction of all unconsumed baits at the end of the program.

(2) No liability shall be imposed upon any state agency or local agency or any employee or agent thereof for any injury occurring to domesticated animals, individuals or property in carrying out programs in good faith authorized by this section, but all persons and agencies shall be liable to the extent otherwise provided by law for ordinary and gross negligence.

Section 93. KRS 72.029 is amended to read as follows:

Every coroner or other official performing a coroner's functions shall, on or before the tenth day of each month, report to the Department for ***Public*** Health[~~ Services~~] the death of any child under the age of eighteen (18) years occurring within the county during the preceding month, and the circumstances of the death. The report shall be made on the form required pursuant to administrative regulations promulgated pursuant to KRS Chapter 13A by the department. The form shall be developed in consultation with the Kentucky Coroners' Association.

Section 94. KRS 72.225 is amended to read as follows:

An advisory commission is hereby established to act in a general advisory capacity to the medical examiner services. The commissioner of State Police, the commissioner of training, the secretary of justice, and the secretary for ***health services***[~~human resources~~] shall be ex officio members of the advisory commission. The secretary of justice shall appoint five (5) additional members for terms of four (4) years each or until their successors are appointed and qualify. Members of the advisory commission shall receive no compensation for their services but shall be repaid their actual expenses incurred in attending meetings.

Section 95. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for ***Health Services***[~~Human Resources~~] on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 96. KRS 72.465 is amended to read as follows:

(1) The coroner shall in his sound discretion determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of KRS 72.410 to 72.470, and if inquiry reveals that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize ***that***[~~such~~] physician to sign the certificate of death. In all other instances, the coroner shall sign the death certificate in coroner's cases.

(2) In the event an autopsy is performed under the provisions of KRS 72.410 to 72.470 subsequent to the time that a death certificate has been filed with the Cabinet for ***Health Services***[~~Human Resources~~], Office of Vital Statistics, the coroner shall notify the Office of Vital Statistics of any change that may be necessary in the original certificate.

Section 97. KRS 96.931 is amended to read as follows:

As used in KRS 96.930 to 96.943, unless the context otherwise requires:

(1) "City" means an incorporated municipality of any class;

(2) "Governing body" means the body vested by law with the legislative power of a city;

(3) "Sewer body" means the body vested with responsibility for the control, operation, and maintenance of a city's sewer facilities, which may be the governing body or a board, commission, or agency, created by statute or by city ordinance, or a private person, performing such functions under lawful contract with the city;

(4) "Water supplier" means any person supplying water intended to be used, or actually used, in any manner resulting in contamination and includes the city itself, other cities and public bodies, and private operators of water-

supplying facilities;

(5) "Public health standards" means such standards as are lawfully prescribed from time to time by the secretary for ***health services***[~~human resources~~], the United States Public Health Service, or any lawfully constituted county, city, or other public board, department, or agency, vested with responsibility in this area.

Section 98. KRS 116.113 is amended to read as follows:

(1) Upon receipt of notification from the Cabinet for ***Health Services***[~~Human Resources~~] of the death of a person, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(2) Upon receipt of notification from the circuit clerk that a person has been declared incompetent, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(3) Upon receipt of notification from the Administrative Office of the Courts that a person has been convicted of a felony offense, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(4) Following the purge of a name from the records of the State Board of Elections, the state board shall notify the clerk of the county in which the voter lived of the action; and the county clerk shall within ten (10) days update the county voter registration files to reflect the necessary change. If a protest is filed by the voter, the county board shall hear it at its next regular monthly meeting. If the county board decides in favor of the protesting voter, the voter's registration record shall be restored, including his voting record. If the protest is filed while the registration books are closed and the county board decides in favor of the protesting voter, the county board shall issue the voter an "Authorization to Vote" for the upcoming election and the voter's record shall be restored when the registration books open following the election.

Section 99. KRS 141.065 is amended to read as follows:

(1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.

(2) There shall be allowed as a credit for any taxpayer against the tax imposed by this chapter for any taxable year, an amount equal to one hundred dollars ($100) for each person hired by the taxpayer, ***if that***[~~provided such~~] person has been classified as unemployed by the Department for Social Insurance of the Cabinet for ***Families and Children***[~~Human Resources~~], and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and ***if*** further[~~ provided~~] that[~~ such~~] person has remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit.

(3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:

(a) A person for whom the taxpayer receives federally funded payments for on-the-job training;[~~ or~~]

(b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of Section 267(c) of the code;[~~ or~~]

(c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of Section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(d) To any person who is a dependent of the taxpayer as described in code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to ***that***[~~such~~] term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.

(5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year.

(6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by

this chapter.

(7) In the case of an electing small business corporation, the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of ***the***~~[such]~~ corporation on the last day of the taxable year, and any person to whom~~[such]~~ an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for ***that***~~[such]~~ amount.

(8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for ***that***~~[such]~~ amount.

(9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

Section 100. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Charitable provider" means any provider which does not charge its patients for health care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health care items or services if:

1. The employing or contracting provider receives revenue attributable to health care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing facility services;

(d) Services of intermediate care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home health care agency services;

(g) Outpatient prescription drugs; and

(h) HMO services;

(7) "Health maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions

of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "***Health Services***~~[Human resources]~~ secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate care facility services for the mentally retarded," "physician services," "licensed home health care agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. part 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for ***Health Services***~~[Human Resources]~~ in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing facility services" means services provided by a licensed skilled care facility, nursing facility, nursing home or intermediate care facility, excluding intermediate care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "Secretary" means the secretary of the Revenue Cabinet or that person's authorized representative.

Section 101. KRS 142.307 is amended to read as follows:

A tax is hereby imposed at a rate of two percent (2%) on gross revenues received by each provider on or after July 15, 1994, for the provision of nursing facility services, intermediate care facility services for the mentally retarded, licensed home health care services and HMO services. The tax imposed by this section shall apply to freestanding psychiatric hospitals if necessary waivers are obtained by the Cabinet for ***Health Services***~~[Human Resources]~~ from the Health Care Financing Administration. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under KRS 142.311.

Section 102. KRS 142.347 is amended to read as follows:

(1) Except when the ***health services***~~[human resources]~~ secretary has been granted specific authority in KRS 142.301 to 142.359, the cabinet shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for ***Health Services***~~[Human Resources]~~ shall fully cooperate with the cabinet and shall provide the cabinet with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 103. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall be provided on a quarterly basis by the cabinet to the ***health services***~~[human resources]~~ secretary on or before the tenth day of the second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309, and 142.311 to register with the cabinet, and comply with the tax and reporting provisions of KRS 142.301 to 142.359.

Section 104. KRS 151.035 is amended to read as follows:

(1) The Kentucky Geological Survey shall be designated as the Commonwealth's official repository for all information relating to the occurrence and quality of ground water as defined in KRS 151.100.

(2) The Cabinet for Natural Resources and Environmental Protection, the Cabinet for ***Health Services***~~[Human Resources]~~, and any other cabinet, department, commission, board, or governmental agency, except as provided in subsection (4) of this section, that, by statute, administrative regulation, or as part of its routine activities, collects or generates information about ground water, shall transmit or cause to be transmitted that information to the Kentucky Geological Survey within ninety (90) days of receipt or generation, or a time determined between the Geological Survey and the other party.

(3) The information to be transmitted may include:

(a) Drillers logs and completion reports of wells drilled or dug for the purpose of producing, testing, or monitoring ground water;

(b) Geophysical logs of water wells;

(c) Water quality analyses of both organic and inorganic constituents;

(d) Results of all pump, extraction, and injection tests;

(e) Flow determinations of surface discharges of ground water; and

(f) Any additional data as the Kentucky Geological Survey shall require.

(4) All institutions of higher learning shall be encouraged, but not required, to submit to the Kentucky Geological Survey copies of all research data, including theses and dissertations relating to the occurrence or quality of ground water.

Section 105. KRS 151B.0235 is amended to read as follows:

(1) The State Advisory Council for Adult Education and Literacy is[~~ hereby~~] created and attached to the Department for Adult Education and Literacy. The members of the council shall be appointed by the Governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult education and literacy programs. The council shall consist of twenty-one (21) members, each of whom shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, one-third (1/3) shall serve a one (1) year term, one-third (1/3) shall serve a two (2) year term, and one-third (1/3) shall serve a three (3) year term. The secretary of the Cabinet for Workforce Development, the secretary of the Cabinet for Education, Arts and Humanities, and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] shall serve as ex officio members. Eleven (11) members of the council shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the council and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term.

(2) The duties of State Advisory Council for Adult Education and Literacy are to advise the secretary of the Cabinet for Workforce Development and the Governor on:

(a) The development and implementation of measurable literacy and adult education goals;

(b) The coordination and monitoring of literacy training programs to ensure progress toward the long-term goals of the state;

(c) Improvement of the quality of literacy programs by supporting the integration of services, staff training, technology-based learning, and the integration of literacy program resources conducted by various agencies of state government; and

(d) Private sector initiatives that would improve adult education and literacy programs.

Section 106. KRS 151B.220 is amended to read as follows:

(1) There is[~~ hereby~~] created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.

(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for ***Families and Children***[~~human resources~~], the secretary for economic development, the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for ***Families and Children***[~~Human Resources~~] to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.

(b) The council shall:

1. Perform the functions assigned to it in the Job Training Partnership Act, 29 U.S.C. sec. 1501 et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Pub. L. 100-418, 102 Stat. 1524, 1536;

2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and

3. Execute other employment and training responsibilities not enumerated in Pub. L. 97-300, as amended, as determined by the Governor or the secretary for workforce development.

(c) The council shall consist of twenty-one (21) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult Education and Literacy, and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designee shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. sec. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. sec. 1532(a)(1) and 29 U.S.C. sec. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.

(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.

Section 107. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2. ***Families and Children***[~~Human Resources~~];
3. Justice;
4. Natural Resources and Environmental Protection;
5. Transportation; and
6. Workforce Development;

(e) The Attorney General, or his designee;

(f) Kentucky's Civilian Aide to the Secretary of the United States Army;

(g) The commander or his designee of each of the following, as nonvoting, ex-officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;
6. Any other installation or organization with a major military mission in the Commonwealth;
7. The One Hundredth Training Division; and

(h) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the five (5) at-large members, by September 30, 1996. The chair shall call a meeting of the commission by October 31, 1996, for the purpose of creating an executive committee.

(a) The commission shall establish an executive committee consisting of the Secretary of the Cabinet for Economic Development, the Adjutant General of the Commonwealth, and the five (5) at-large members.

(b) The chair and vice chair of the commission shall serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds and operate the normal business activities of the commission with approval of the executive committee.

(9) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 108. KRS 154.20-020 is amended to read as follows:

(1) The secretary shall be authorized to commit the cabinet to any project or proposal, subject to approval of the committee as necessary except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the board.

(2) No project shall be funded in whole or part by the authority unless first approved by its committee pursuant to administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(3) Lending decisions made by the authority shall be based, if possible, feasible, and not otherwise precluded by federal or state law, on utilizing state funds to leverage private sector investment.

(4) The authority shall cooperate with the Cabinet for ***Health Services***~~[Human Resources]~~ in facilitation of KRS 194.245(1).

Section 109. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is~~[hereby]~~ created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member

appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 110. KRS 154.45-120 is amended to read as follows:

The Cabinet for ***Families and Children***[~~Human Resources~~] shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The Cabinet for ***Families and Children***[~~Human Resources~~] shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 111. KRS 157.317 is amended to read as follows:

(1) The Kentucky Board of Education through administrative regulations shall develop and implement a statewide Early Childhood Education Program which shall include basic principles of child development, early childhood education, and all other related concepts which deal with generally-accepted early childhood programs, including the delivery of health and social services to children as needed.

(2) (a) The Kentucky Early Childhood Advisory Council is created to advise the chief state school officer on the implementation of early childhood education programs. The Department of Education shall provide staff and administrative support for the council.

(b) The Kentucky Early Childhood Advisory Council shall consist of one (1) member of the Kentucky Board of Education appointed by the chairman and sixteen (16) members appointed by the Governor. The sixteen (16) appointed members shall include one (1) representative from each of the following agencies or groups: preschool teachers, public school teachers, elementary school principals, parents, child care providers, community education, the Interagency Task Force on Family Resource Centers and Youth Services Centers, the Head Start Association, the Head Start director, the Head Start Program, the Infant/Toddler Coordinating Council, the Department for ***Public*** Health[~~ Services~~], the Department for Social Services, the Department for Social Insurance, the colleges of education, and the colleges of home economics.

(c) Members shall serve a four (4) year term, except initial appointments shall be set so that four (4) members shall serve one (1) year, four (4) members shall serve two (2) years, four (4) members shall serve three (3) years, and four (4) members shall serve four (4) years.

Section 112. KRS 158.035 is amended to read as follows:

Except as provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a medical or osteopathic physician licensed in any state. The certificate shall state that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola, and rubella in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036, and 214.990 and the regulations of the secretary for ***health services***[~~human resources~~]. The governing body of private and public schools shall enforce the provisions of this section.

Section 113. KRS 158.037 is amended to read as follows:

Each public or private elementary or secondary school shall report tuberculin skin test and immunization results to its local health department in accordance with regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 114. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means:

1. Those children of school age committed to or in custody of the Cabinet for ***Families and Children***[~~Human Resources~~] and placed, or financed by the cabinet, in a Cabinet for ***Families and Children***[~~Human Resources~~] operated or contracted institution, treatment center, or facility, or placed or financed by the Cabinet for ***Families and Children***[~~Human Resources~~] in a private facility pursuant to child care

agreements other than those for foster care;

2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the mentally retarded; and

3. Those children committed to or in custody of the Department of Juvenile Justice, except for children placed in a juvenile detention facility or jail as defined in KRS 15A.067.

(b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, related services if identified on an individual educational plan, and more intensive educational programming.

(2) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district that provides elementary or secondary school services to state agency children shall be reimbursed through a contract with the Kentucky Educational Collaborative for State Agency Children. The school services furnished to state agency children shall be equal to those furnished to other school children of the district.

(3) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for ***Families and Children***~~[Human Resources]~~ unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.

(4) The Cabinet for ***Families and Children***~~[Human Resources]~~ shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.

(5) Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Section 115. KRS 158.160 is amended to read as follows:

(1) A parent, legal guardian, or other person or agency responsible for a student shall notify the student's school if the student has any medical condition which is defined by the Cabinet for ***Health Services***~~[Human Resources]~~ in administrative regulation as threatening the safety of the student or others in the school. The notification shall be given as soon as the medical condition becomes known and upon each subsequent enrollment by the student in a school. The principal, guidance counselor, or other school official who has knowledge of the medical condition shall notify the student's teachers in writing of the nature of the medical condition.

(2) If any student is known or suspected to have or be infected with a communicable disease or condition for which a reasonable probability for transmission exists in a school setting, the superintendent of the district may order the student excluded from school. The time period the student is excluded from school shall be in accordance with generally accepted medical standards which the superintendent shall obtain from consultation with the student's physician or the local health officer for the county in which the school district is located. During the presence in any district of dangerous epidemics, the board of education of the school district may order the school closed.

Section 116. KRS 160.305 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ may enter into a contract with the local board of education of any school district in the Commonwealth for the use of school buses to transport persons eligible for transportation services at times when the buses are not needed to transport students to or from school or school events. Persons eligible for ***these***~~[such]~~ transportation services shall be:

(a) Sixty-two (62) years of age or older;

(b) Those with physical or mental disabilities; or

(c) Any other person designated by the Cabinet for ***Families and Children***~~[Human Resources]~~ as appropriate for ***these***~~[such]~~ transportation services.

(2) Before ***this***~~[such a]~~ contract is entered into, the Cabinet for ***Families and Children***~~[Human Resources]~~ shall formulate a plan for the use of school buses for ***these***~~[such]~~ purposes and shall submit it to the local board of education for its approval or disapproval. The plan for the use of school buses for ***these***~~[such]~~ transportation purposes shall include routes, schedules, cost, and any other matters deemed necessary by both parties.

(3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the Cabinet for ***Families and Children***~~[Human Resources]~~.

Section 117. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the

Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry, and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the Kentucky Job Training Coordinating Council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations, and special populations to include women, the disadvantaged, individuals with disabilities, individuals with limited English proficiency, and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to ***administrative*** regulations ***promulgated***[~~established~~] by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board for Adult and Technical Education or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for Adult and Technical Education and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for individuals with disabilities; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for Adult and Technical Education on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for Adult and Technical Education on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for Adult and Technical Education to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for Adult and Technical Education on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for Adult and Technical Education on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act; and

(j) Advise the Governor, the State Board for Adult and Technical Education, Kentucky Job Training Coordinating Council, the secretary of the Cabinet for ***Workforce Development***[~~Human Resources~~], and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council may obtain the services of the professional, technical, and clerical personnel necessary to carry out its functions and to contract for the services necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state boards, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to, federal grants. The funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the Cabinet for Workforce Development to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

Section 118. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; ***and***

5. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for ***Health Services***[~~Human Resources~~] appointed by the secretary;

(c) ***One representative of the Cabinet for Families and Children appointed by the secretary;***

(d) The secretary of the Education, Arts, and Humanities Cabinet or his designee;

(e)[~~(d)~~]The president of the Kentucky Association for the Deaf or his designee;

(f)[~~(e)~~] The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(g)[~~(f)~~] Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)***(f)***[~~(e)~~] of this section, appointed as follows:

1. One (1) parent of a hard of hearing or deaf child;

2. One (1) representative of a private organization providing consistent services to the deaf and hard of hearing; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsections (1)(a)2. through (1)(a)5. and subsection (1)***(g)***[~~(f)~~] of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 119. KRS 164.935 is amended to read as follows:

(1) As used in this section:

(a) "Physician" means a medical doctor practicing full-time family medicine, general obstetrics and gynecology, general pediatrics, or general internal medicine; and

(b) "Underserved geographic area" means a county in which the ratio between physicians practicing full time in that county and the county's population results in each physician serving two thousand five hundred (2,500) or more residents, based on population data acceptable to either the University of Kentucky or the University of Louisville.

(2) The University of Kentucky and University of Louisville shall establish and maintain physician recruitment and placement services, the principal function of which shall be to recruit or place family or general practice physicians in underserved geographic areas. The Cabinet for ***Health Services***[~~Human Resources~~] shall pay each university fifty thousand dollars ($50,000) annually for basic administrative costs in addition to the fees enumerated in subsection (4) of this section.

(3) Physician recruitment and placement services may be contracted by licensed health care facilities or services to assist in recruiting physicians in underserved geographic areas. Fees shall be charged by the University of Kentucky or the University of Louisville to the contracting party in an amount not to exceed ten thousand dollars ($10,000) per physician.

(4) If no licensed health care facility or service has contracted for recruitment services, when the University of Kentucky or the University of Louisville places a physician in an underserved geographic area or a psychiatrist in a state mental health facility, the following fees shall be paid to the university by the Cabinet for ***Health Services***[~~Human Resources~~], the total of which shall not exceed fifty thousand dollars ($50,000) per university in addition to the fifty thousand dollars ($50,000) per university enumerated in subsection (3) of this section:

(a) Ten thousand dollars ($10,000) for a family practice physician entering permanent, full-time practice;

(b) Ten thousand dollars ($10,000) for a psychiatrist entering full-time permanent employment in a state mental health facility;

(c) Eight thousand dollars ($8,000) for a general obstetrician-gynecologist entering permanent, full-time practice;

(d) Two thousand dollars ($2,000) for a general pediatrician or general internal medicine practitioner entering permanent, full-time practice; and

(e) One thousand dollars ($1,000) for any other licensed medical practitioner entering permanent, full-time practice.

(5) Fees paid to the universities under the provisions of subsection (3) of this section shall be made only after sufficient proof has been presented documenting the university's principal role in influencing the physician's practice location. Correspondence from physicians placed, as well as all other parties directly involved, shall state that the university substantially influenced the physician's choice of practice location and describe in detail the services provided by the university.

Section 120. KRS 174.410 is amended to read as follows:

(1) The secretary shall be responsible for controlling and regulating the movement of all radioactive materials and the intrastate transport of other hazardous materials transported by all carrier modes within the Commonwealth.

(2) The secretary, in consultation with the secretary of the Natural Resources and Environmental Protection Cabinet and the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], shall adopt by reference or in entirety, the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively carry out the intent of KRS 174.400 to 174.425.

(3) The cabinet and the Justice Cabinet shall cooperate with and assist the Natural Resources and Environmental Protection Cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:

(a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Natural Resources and Environmental Protection Cabinet; and comply with applicable shipping standards;

(b) Upon receipt of a written request from the secretary or general counsel of the Natural Resources and Environmental Protection Cabinet, actively conduct field investigations relating to the illegal, improper, or unauthorized transport of hazardous waste in the state. Such investigations may, at a minimum, include passive and active surveillance, apprehension, and reporting, with the scope and extent of each investigation to be previously agreed to by the involved cabinets;

(c) Compile and maintain such necessary records ***that***[~~as~~] may normally be required to carry out the provisions of this subsection and shall for minor violations report quarterly, and for major violations report weekly, to the Natural Resources and Environmental Protection Cabinet on the status of the interagency hazardous waste transportation monitoring and enforcement activity for irregularities or violations;

(d) Provide ***any***[~~such~~] information, evidence, and other support, either in written form or in the form of oral testimony during a legal proceeding or both, as may be required by the Natural Resources and Environmental Protection Cabinet to fully carry out its statutory responsibility under the appropriate sections of KRS Chapter 224;

(e) The Natural Resources and Environmental Protection Cabinet shall, unless specifically agreed otherwise, have primary responsibility for initiating and conducting all legal proceedings arising from the terms and provisions of this subsection; and

(f) The Natural Resources and Environmental Protection Cabinet shall provide sufficient training, technical assistance, and other support to the appropriate cabinets to prepare representatives of the cabinets to adequately carry out the responsibilities set forth in this subsection.

Section 121. KRS 175.525 is amended to read as follows:

(1) The authority or the cabinet shall establish by administrative regulation promulgated pursuant to KRS Chapter 13A a toll road identification card to be provided to paying and nonpaying users of toll facilities. The toll road identification cards shall be issued through an application process. A fee that shall not exceed five dollars ($5) may be established for the issuance of each card.

(2) Upon application, nonpaying accounts shall be established for:

(a) State police, local police, and fire department vehicles while the vehicles are being operated in an official capacity on a turnpike project;

(b) Emergency vehicles operated by an ambulance service while the vehicles are being operated in an official capacity, in both emergency and nonemergency situations on a turnpike project; and

(c) Funeral processions on turnpike projects.

(3) To receive the exemption contained in subsection (2) of this section, an ambulance service shall be licensed by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 122. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists. The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for ***Families and Children***[~~Human Resources~~] that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, or payments on the child support arrearage are being made in accordance with a court or administrative order. Before the license may be reinstated, proof of elimination of the child support arrearage from the Cabinet for ***Families and Children***[~~Human Resources~~] shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for ***Families and Children***[~~Human Resources~~] and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person

is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 123. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the State Police, a public police department, Department of Corrections, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; any vehicle used to respond to emergencies or to transport a patient with a critical medical condition if the vehicle is operated by a Cabinet for ***Health Services***~~[Human Resources]~~ licensed ambulance provider or medical first response provider; any vehicle commandeered by a police officer; or any motor vehicle used by a paid or volunteer fireman or paid or volunteer ambulance personnel while responding to an emergency or to a location where an emergency vehicle is on emergency call.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 124. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection (4)(a) of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection (4)(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection (4)(c) or (d) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, treatment means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for ***Health Services***[~~Human Resources~~] for services as required under this section.

(6) The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for ***Health Services***[~~Human Resources~~] shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 125. KRS 195.105 is amended to read as follows:

(1) The ***secretaries***[~~secretary~~] for ***health services and for families and children***[~~human resources~~] in coordination with the[~~Department of~~] Personnel ***Cabinet are***[~~is~~] authorized to establish formal training programs within the Cabinet for ***Health Services and the Cabinet for Families and Children***[~~Human Resources~~] or within any of the departments, divisions, or sections of the ***cabinets***[~~cabinet~~] for the training of necessary personnel for the administration of the programs of the ***cabinets***[~~cabinet~~]. When courses of study, applicable to the program processes of the ***cabinets***[~~cabinet~~], are not available through instruction within the ***cabinets***[~~cabinet~~], arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose***,*** and ***this***[~~such~~] training shall be deemed to be a part of the ***cabinets'***[~~cabinet's~~] training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, ***these***[~~such~~] assignments to relate directly to the work assignment of the employee. After consulting with the ***Personnel Cabinet***[~~Department of Personnel~~], position classifications in the research series shall be established for employees on[~~such~~] work study assignments, and funds of the ***cabinets***[~~cabinet~~] may be used to pay salaries commensurate with the appropriate classification while the employee is receiving such training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, the state will hold a claim against ***that person***[~~him~~] for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 126. KRS 195.020 is amended to read as follows:

(1) The ***Cabinet for Health Services and the Cabinet for Families and Children***[~~cabinet~~] shall exercise all functions of the state in relation to:

(a) Administration and supervision of all forms of public assistance including general home relief, outdoor and indoor care for persons in need, old age assistance, aid to dependent children, and aid to individuals who are blind and other individuals with disabilities.

(b) Administration and supervision of services to needy, neglected, and dependent children.

(2) All administrative functions of the nature outlined above, heretofore performed by other agencies of the state, are hereby

transferred to and shall hereafter be performed by the Cabinet for ***Health Services or the Cabinet for Families and Children***[~~Human Resources~~].

Section 127. KRS 195.180 is amended to read as follows:

The duties of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be to:

(1) Promote and aid in the establishment of local programs supporting the employment of individuals with disabilities;

(2) Conduct continuing programs of public information and promotion to educate the public as to problems of employment of individuals with disabilities;

(3) Review existing state programs for employment of individuals with disabilities and make recommendations to the Governor, to the appropriate departments and agencies of the state, and to the General Assembly for improvements in and additions to such programs;

(4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of employment of individuals with disabilities;

(5) Cooperate with the federal government and with the governments of other states and cities in programs relating to individuals with disabilities;

(6) Cooperate with all groups interested in job adjustment and employment of individuals with disabilities, including government agencies, organizations, private groups, and individuals.

Section 128. KRS 196.081 is amended to read as follows:

(1) To facilitate the need for comprehensive planning for the Department of Corrections and for related matters the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of twelve (12) members as follows:

(a) The Attorney General;

(b) The secretary of the Justice Cabinet;

(c) The commissioner of the Department of Corrections;

(d) The chairman of the Parole Board;

(e) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~];

(f) A county jailer chosen by the Governor;

(g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;

(h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;

(i) A representative from a law enforcement agency, appointed by the Governor;

(j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and

(k) The state Public Advocate.

(2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.

(3) The Governor shall appoint a chairman of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.

(4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairman. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.

(6) The commission shall:

(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;

(b) Develop a six (6) year plan for Department of Corrections operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;

(c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;

(d) Assist the Department of Corrections in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;

(e) Review and make recommendations to the General Assembly concerning legislative proposals, including Department of Corrections budget proposals, to insure consistency with the six (6) year plan;

(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;

(g) Receive regular reports from the Department of Corrections, on a schedule established by the commission, as to the department's progress in complying with the six (6) year plan;

(h) Review and make recommendations to the department on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;

(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;

(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation, and parole;

(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department ***for***[~~of~~] Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~], and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation; and

(l) Administer the provisions of KRS 196.700 to 196.735.

(7) The six (6) year plan shall consist of at least the following elements:

(a) The location, capacity, classification, and staffing of each penal institution and program administered by the Department of Corrections;

(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;

(c) The administrative structure of the Department of Corrections;

(d) Prison population projections for the six (6) year plan period;

(e) Education, rehabilitation, and prison industries programs administered by the Department of Corrections;

(f) The inmate labor program administered by the department; and

(g) Contingency plans to deal with unexpected increases in prison population.

(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.

Section 129. KRS 196.171 is amended to read as follows:

(1) The Department of Corrections shall develop an educational course on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for ***Health Services***[~~Human Resources~~] of not more than four (4) hours for the instruction of corrections personnel who have day to day contact with incarcerated persons and personnel who may be expected to respond to crisis situations. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. The training may be part of any continuing education program.

(2) All persons referred to in subsection (1) of this section shall successfully complete the training required. Any person holding the position referred to in subsection (1) of this section shall not fill that position for more than one (1) year without successful completion of the required training. If the persons do not successfully complete the required training

within the time specified, he shall be suspended from further service until he successfully completes the required training.

Section 130. KRS 197.055 is amended to read as follows:

(1) The Department of Corrections, in conjunction with the Cabinet for ***Health Services***~~[Human Resources]~~, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the department, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the department shall begin a testing program which is consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority and shall target persons who have been involved in or reasonably thought to have been involved in a high risk behavior. For purposes of this subsection, "high-risk behavior" includes:

(a) Sexual contact with any person within the institution;

(b) The use of intravenous drugs;

(c) Tattooing; and

(d) Any other activity medically known to transmit the virus.

(3) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(4) The department shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(5) The department shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(6) If an inmate is involved in a situation with a department employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

(7) All testing procedures, disclosure, and payment shall be pursuant to KRS 438.250.

Section 131. KRS 198A.035 is amended to read as follows:

(1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:

(a) The following ten (10) state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Department of Local Government; commissioner of the Department of Housing, Buildings and Construction; secretary of the Cabinet for Economic Development; secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~; secretary of the Natural Resources and Environmental Protection Cabinet; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.

(b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:

1. Public housing authorities;
2. Mortgage banking industry;
3. Manufactured housing industry;
4. Realtors;
5. Homebuilders;
6. Urban nonprofit housing organizations;
7. Rural nonprofit housing organizations;
8. Urban advocates for the homeless;
9. Rural advocates for the homeless;
10. Residents of economically-diverse urban neighborhoods;
11. Residents of economically-diverse rural neighborhoods;
12. Rental property providers;

13. Advocates for persons with physical disabilities;

14. Advocates for persons with mental disabilities;

15. The Kentucky State Building Trades Council;

16. The Kentucky League of Cities; and

17. The Kentucky Association of Counties.

(c) One (1) member of the Senate and one (1) member of the House of Representatives.

(2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed pursuant to subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.

(3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.

(4) Any vacancy shall be filled pursuant to the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.

(5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.

(6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.

(7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.

(8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.

(9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.

(10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 132. KRS 198B.020 is amended to read as follows:

(1) There is[~~ hereby~~] created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department of Housing, Buildings and Construction comprised of twenty (20) members to include: the commissioner of the department, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for ***Public*** Health[~~ Services~~], Cabinet for ***Health Services***[~~Human Resources~~]; the Attorney General or any assistant attorney general he may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the Governor to represent the interests of low and moderate income housing consumers within the Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the Governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the Governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the Governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky State Building Trades Council; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors; one (1) member selected by the Governor from a list of three (3) submitted by the Mechanical Contractors Association; one (1) electrical contractor member selected by the Governor from a list of three (3) submitted by the National Electrical Contractors Association; and one (1) retailer member selected by the Governor from a list of three (3) submitted by the Kentucky Retail Federation.

(2) Except for the commissioner of the department, the commissioner of the Department for ***Public*** Health[~~ Services~~], the

executive director of the Kentucky Housing Corporation and the Attorney General or his designee who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms. No board member shall be appointed for more than one (1) successive term except as provided in subsection (3) of this section. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.

(3) Vacancies occurring on the board among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his position on the board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.

(4) Members may be removed from the board by the Governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.

(5) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(6) The commissioner of the department shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the Department for ***Public*** Health~~[Services]~~, the executive director of the Kentucky Housing Corporation nor the Attorney General or his designee shall be elected to office on the board.

(7) The board may adopt such rules, regulations and bylaws as are necessary to conduct its internal business.

(8) No member of the board may vote on any matter which will result in his direct or indirect financial gain.

(9) Those members of the board who are not salaried governmental employees shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars ($50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

Section 133. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for ***families and children***~~[human resources]~~;

(2) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~;

(3) "Department" means the Department for Social Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(6) "Child-caring facility" means any institution or group home other than a state facility, or one (1) certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency licensed by the cabinet other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(8) "Adoption worker" means an employee of the cabinet ***so*** designated~~[as such]~~ by the secretary for ***families and children***~~[human resources]~~, a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;

(9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(10) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

(12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;~~[and]~~

(13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties

established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption***; and***[~~.~~]

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. In the event the person was not represented by independent legal counsel, the consent shall be in writing, signed and sworn to by the consenting person and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;

(e) A statement that the consenting person understands that the consent will be final and irrevocable twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required;

(f) Disposition of the child if the adoption is not adjudged;

(g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(h) A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;

(i) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and

(j) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 134. KRS 199.420 is amended to read as follows:

(1) The secretary shall have the power and authority to adopt, amend***,*** or rescind ***those administrative***[~~such rules and~~] regulations ***that the secretary***[~~as he~~] deems necessary or suitable for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. ***These administrative***[~~Such rules and~~] regulations shall become effective in the manner and at the time prescribed by the secretary.

(2) In the administration of KRS 199.410 to 199.670 the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.

(3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45***,*** and 64, to appoint, fix the compensation and prescribe the duties and powers of ***any***[~~such~~] officers and employees as ***are***[~~may be~~] necessary in the performance of ***the secretary's***[~~his~~] duties under KRS 199.410 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any[~~ such~~] person so appointed ***that***[~~such~~] power and authority as ***the secretary***[~~he~~] deems reasonable and proper for the effective administration of KRS 199.410 to 199.670.

(4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for ***these***[~~such~~] workers under the workers' compensation law of this state. In the event ***the***[~~such~~] coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.

(5) The salaries and expenses of the secretary and ***the secretary's***[~~his~~] staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for ***Families and Children***[~~Human Resources~~].

Section 135. KRS 199.440 is amended to read as follows:

The secretary may authorize the destruction of ***any***[~~such~~] original reports and records ***that***[~~as~~] have been properly recorded or summarized in the permanent records of the cabinet or are no longer considered necessary to the proper administration of the cabinet. ***The***[~~Such~~] destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of ***the***~~[such]~~ records shall be deposited and credited to the use of the Cabinet for ***Families and Children***~~[Human Resources]~~.

Section 136. KRS 199.461 is amended to read as follows:

(1) As used in this section, "family service worker" means a social worker employed by the Cabinet for ***Families and Children***~~[Human Resources]~~, Department for Social Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.

(2) As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.

(3) The monthly statewide caseload average for family service workers in the area of foster care, child protection, juvenile services, or adult protection shall not exceed twenty-five (25) active cases.

(4) Nothing in this section shall prevent the department or a family service worker from handling emergencies to carry out statutory mandates. If the monthly statewide caseload average for family service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report the fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. The report shall include, by county and district, family service worker caseload averages; the number of established family service worker positions; and the number of vacant family service worker positions.

Section 137. KRS 199.462 is amended to read as follows:

(1) Before any applicant to provide foster care home services to a minor may be approved, the Cabinet for ***Families and Children***~~[Human Resources]~~ shall request from the Justice Cabinet records of all conviction information for the applicant. The Justice Cabinet shall furnish the information to the Cabinet for ***Families and Children***~~[Human Resources]~~ and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

Section 138. KRS 199.467 is amended to read as follows:

Pursuant to the requirements of the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, the secretary for ***families and children***~~[human resources]~~ shall adopt by regulation specific goals for each fiscal year for the cabinet as to the maximum number of children, (either in absolute numbers or as a percentage of all children in foster care with respect to whom assistance is provided in that year) who, at any time during such fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with a description of the steps to be taken by the state to achieve such goals.

Section 139. KRS 199.473 is amended to read as follows:

(1) All persons other than a child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Prior to the approval of an application to place or receive a child, together with the fee required pursuant to subsection (6) of this section, the secretary shall cause the investigation to be made by a Cabinet for ***Families and Children***~~[Human Resources]~~ social worker unless the applicant specifies in the application that the investigation shall be done by an adoption worker of the home and the background of the person or persons wishing to receive the child. The portion of the investigation pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The adoption worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case, reasons for the adoption worker's recommendation shall be given in writing. The recommendation of the adoption worker shall then be reviewed by the secretary. Based on the report and recommendation of the adoption worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching ***a***~~[his]~~ decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint. If the application is refused, the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. If the application is denied, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or~~[such]~~ other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.

(3) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with ***that person or those persons***[~~him or them~~] for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent. The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in[~~ such~~] a manner ***that constitutes***[~~as to constitute~~] an abuse of discretion.

(4) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for ***families and children***[~~human resources~~], or if permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants ***who are*** to receive ***the child***[~~him~~] unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.

(5) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.

(6) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be paid a nonrefundable fee of one hundred fifty dollars ($150) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special needs child as authorized in KRS 199.555.

(7) Nothing in this statute shall be construed to limit the authority of the cabinet or a child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 140. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

(a) The name, date, place of birth, place of residence, and mailing address of each petitioner, and, if married, the date and place of their marriage;

(b) The name, date, place of birth, place of residence, and mailing address, if known, of the child sought to be adopted;

(c) Relationship, if any, of the child to each petitioner;

(d) Full name by which the child shall be known after adoption;

(e) A full description of the property, if any, of the child so far as it is known to the petitioner;

(f) The names of the parents of the child and the address of each living parent, if known. The name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child. If certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;

(g) The name and address of the child's guardian, if any, or of the cabinet, institution, or agency having legal custody of the child;

(h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and

(i) If any fact required by this subsection to be alleged is unknown to the petitioners, the lack of knowledge shall be alleged.

(2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.

(3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written approval of the secretary of the

Cabinet for ***Families and Children***[~~Human Resources~~] or the secretary's designee shall be filed with the petition.

Section 141. KRS 199.500 is amended to read as follows:

(1) An adoption shall not be granted without the voluntary and informed consent of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:

(a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of the parents have been terminated under KRS Chapter 625;

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or

(d) The biological parent has not established parental rights as required by KRS 625.065.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to ***the***[~~such~~] child.

(5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable twenty (20) days after either the interstate or the intrastate placement approval by the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], or twenty (20) days after the execution of the consent if placement approval was given prior to the signing of the consent, if approval is required.

Section 142. KRS 199.555 is amended to read as follows:

(1) A "special needs child" means:

(a) A child which the state has determined cannot or should not be returned to the home of ***the child's***[~~his~~] parents; and

(b) A child which the state has first determined:

1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and

2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of ***these***[~~such~~] parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX.

(2) "State-funded adoption assistance" means payment of monthly maintenance to assist in meeting the special needs of a child which was placed by the Cabinet for ***Families and Children***[~~Human Resources~~]. The state-funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.

(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the special needs adoption and which are not incurred in violation of state or federal law.

(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, Medicaid, or other third-party payors or government programs.

(5) If the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of adoption, funds may be paid to the adoptive parents after completion of the adoption of the child if the following conditions exist:

(a) The child was considered a special needs child prior to the adoption;

(b) The child is committed to the Cabinet for ***Families and Children***[~~Human Resources~~] and the cabinet has authority to consent to the child's adoption; and

(c) The adoptive parents can give suitable care to the child if a subsidy is paid.

(6) Agreements for the payments of funds under this section shall be made prior to the adoption of the child. However, if the secretary for ***families and children***[~~human resources~~] or his designated representative finds that the adoption is likely to disrupt, extraordinary medical expenses may be reimbursed contingent upon availability of resources, if the following conditions exist:

(a) The child was placed for adoption by the Cabinet for ***Families and Children***[~~Human Resources~~];

(b) The child was considered a special needs child prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

(7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473(5) which shall be deposited in a restricted account for the purpose of subsidizing special needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for ***families and children***[~~human resources~~] in accord with 42 U.S.C. ***sec.*** 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.

(8) State-funded adoption assistance payments shall not be made to parents if:

(a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);

(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or

(c) The cabinet determines that the child is no longer receiving any support from the parents.

(9) Parents who have been receiving adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.

(10) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Section 143. KRS 199.557 is amended to read as follows:

(1) For the purpose of this section, unless the context requires otherwise, "Federal Title IV-E adoption assistance" means the payment of monthly maintenance to assist in meeting the special needs of the child and of nonrecurring adoption expenses which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to legal adoption of a special needs child and which are not incurred in violation of state or federal law.

(2) If the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designated representative finds that payment of a subsidy to adoptive parents after the adoption will increase the likelihood of ***the***[~~such~~] adoption, funds may be paid to the adoptive parents after conclusion of the adoption if the child meets the eligibility criteria established at 42 U.S.C. ***sec.*** 673.

(3) Agreements for Federal Title IV-E adoption assistance under this section shall be made prior to the adoption of the child.

(4) Payment shall be out of funds appropriated to the cabinet and Federal Title IV-E funds of the Social Security Act as amended (42 U.S.C. ***sec.*** 673 et seq.). All payments shall be in accordance with administrative regulations promulgated by the Cabinet for ***Families and Children***[~~Human Resources~~]. Payments shall not exceed the amount which would be paid for foster care for the child. Nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designated representative in accordance with 42 U.S.C. ***sec.*** 673 et seq.

Section 144. KRS 199.570 is amended to read as follows:

(1) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to ***the***[~~such~~] proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on

written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of adoption. Health information received pursuant to KRS 199.525 shall be added to the adoption case file. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky full information as called for on forms furnished by the Cabinet for ***Health Services***[~~Human Resources~~], necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for ***Health Services***[~~Human Resources~~] shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL -- subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. If requested by the adoptive parents, the new birth certificate when issued shall contain the location of birth, hospital, and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for ***Health Services***[~~Human Resources~~] shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for ***Health Services***[~~Human Resources~~] shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. If the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. If the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of ***the***[~~ such~~] child's birth.

(5) If any judgment of adoption is reversed, modified, or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for ***Health Services***[~~Human Resources~~] of the reversal or modification and the effect of same, and the cabinet shall make any necessary changes in its records.

Section 145. KRS 199.572 is amended to read as follows:

(1) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet whether they consent to the inspection of the adoption records, to personal contact by the child, or to both when he becomes an adult. If consent is then given, it can later be revoked. If consent is withheld at that time, the biological parents may give consent at any later time. The initial written statement of consent or refusal of consent to inspection of records and personal contact shall be filed with the Circuit Court not later than the date of finalization of the adoption proceedings. When a written consent is on file, the records shall be available to the adult adopted person, upon his request therefor in writing.

(2) When any adult adopted person applies in person or in writing to the Circuit Court for authorization to inspect all papers and records pertaining to the adoption proceedings of ***that adult***[~~such~~] adopted person as provided in KRS 199.570(1), and the biological parents have previously refused consent to inspection of records and to personal contact, the court may, if satisfied as to the identity of ***the***[~~such~~] adult adopted person, authorize the adult adopted person to inspect the papers and records if written consent is obtained from the biological parents identified on the adult adopted person's original birth certificate.

(3) The Circuit Court shall, within seven (7) working days of the receipt of the request, direct the secretary of the cabinet to notify each biological parent identified on the adult adopted person's original birth certificate that ***the***[~~said~~] person has applied to the court for information identifying ***the***[~~such~~] biological parent. Within six (6) months of receiving the notice of the request of the adult adopted person, the secretary of the cabinet shall make complete and reasonable efforts to notify each biological parent identified on the adult adopted person's original birth certificate. The secretary may charge a reasonable fee not to exceed two hundred fifty dollars ($250) to the adult adopted person for making ***this***[~~such a~~] search. Every child-caring facility and child-placing agency in the Commonwealth shall cooperate with the secretary in his efforts to notify ***these***[~~such~~] biological parents.

(4) The notification of the biological parents shall not be by mail and shall be by personal and confidential contact. The

notification shall be done without disclosing the identity of the adult adopted person. The personal and confidential contact with the biological parents shall be evidenced by filing with the Circuit Court an affidavit of notification executed by the person who notified each parent and certifying each parent was given the following information:

(a) The nature of the information requested by the adult adopted person;

(b) The date of the request of the adult adopted person;

(c) The right of the biological parent to file, within sixty (60) days of receipt of the notice, an affidavit with the Circuit Court stating that the adult adopted person shall be authorized to inspect all papers and records pertaining to his adoption proceedings;

(d) The right of the biological parent to file at any time an affidavit authorizing the adult adopted person to inspect all papers and records pertaining to his adoption proceedings; and

(e) The right of a biological parent to file an affidavit with the Circuit Court stating that all papers and records pertaining to the adoption proceedings of the adult adopted person shall not be open for inspection by the adult adopted person.

(5) The adult adopted person shall not be authorized to inspect the papers and records pertaining to his ***or her*** adoption proceedings unless those biological parents identified on the original birth certificate agree in writing to ***that***[~~such~~] inspection.

(6) If after diligent and reasonable effort, the secretary of the cabinet certifies that both biological parents identified in the original birth certificate are deceased or the secretary is unable to locate said parents, then a judge of the Circuit Court, upon motion of the adult adopted person, may order that all papers and records of the Cabinet for ***Families and Children***[~~Human Resources~~] and those of the Circuit Court pertaining to the adoption shall be open for inspection to ***the***[~~such~~] adult adopted person. In any case, the court shall order that only identifying information about the biological parents be shared with the adult adopted person.

Section 146. KRS 199.575 is amended to read as follows:

In situations where a pre-adoptive brother or sister relationship existed, and one (1) or more of these siblings was then adopted, the following procedures shall be followed on an inquiry by one (1) or more of the siblings to the Cabinet for ***Families and Children***[~~Human Resources~~] seeking information about his brother or sister:

(1) In all cases, an adopted person eighteen (18) years of age or older or a pre-adoptive sibling eighteen (18) years of age or older of an adopted person may file information concerning himself, his present location, and his known antecedents with the Cabinet for ***Families and Children***[~~Human Resources~~], stating his interest in being reunited with his pre-adoptive siblings and authorizing the cabinet to release such information to his pre-adoptive siblings who may make similar inquiry.

(2) In any case in which a person eighteen (18) years of age or older requests information about or expresses a desire in being reunited with a pre-adoptive sibling, the cabinet shall first determine whether such sibling has made similar inquiry pursuant to subsection (1) of this section. If ***the***[~~such~~] sibling has previously authorized release of information about himself, the cabinet shall release ***the***[~~such~~] information to the sibling making inquiry.

Section 147. KRS 199.590 is amended to read as follows:

(1) A person, corporation, or association shall not advertise in any manner that it will receive children for the purpose of adoption. A newspaper published in the Commonwealth of Kentucky or any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky shall not contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) A person, agency, institution, or intermediary shall not sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. This section shall not prohibit a child-placing agency from charging a fee for adoption services. This section shall not be construed to prohibit in vitro fertilization. For purposes of this section, "in vitro fertilization" means the process by which an egg is removed from a woman, and fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.

(3) No person, association, or organization, other than the cabinet or a child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. This subsection shall not be construed to limit the Cabinet for ***Families and Children***[~~Human Resources~~] in carrying out its ***public assistance under Title IV-A of the federal Social Security Act***[~~Aid to Dependent Children~~] Program in accordance with KRS Chapter 205. This section shall not be construed to prohibit private independent adoption or the right to seek legal services relating to a private independent adoption.

(4) A person, agency, institution, or intermediary shall not be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that

artificial insemination. A person, agency, institution, or intermediary shall not receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.

(5) A person, organization, group, agency, or any legal entity, except a child-placing agency, shall not accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted. This section shall not interfere with the legitimate practice of law by an attorney.

(6) (a) In every adoption proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parents for any purpose related to the adoption shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the adoptive parents shall not have any claim against the adoptive parents for the amount not approved.

Section 148. KRS 199.595 is amended to read as follows:

(1) The General Assembly finds that:

(a) Finding adoptive families for children, for whom state assistance is desirable pursuant to KRS 199.555, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

(b) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

(2) The purposes of KRS 199.5951 to 199.5955 are to:

(a) Authorize the Cabinet for ***Families and Children***~~[Human Resources]~~ to enter into interstate agreements with agencies of other states for protection of children on behalf of whom adoption assistance is being provided by the Cabinet for ***Families and Children***~~[Human Resources]~~; and

(b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

Section 149. KRS 199.5951 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ is authorized to develop, participate in the development of, negotiate and enter into one (1) or more interstate compacts on behalf of this state with other states to implement one (1) or more of the purposes set forth in KRS 199.595 to 199.5955. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

(2) For the purposes of KRS 199.595 to 199.5955, the term "state" shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

(3) For the purposes of KRS 199.595 to 199.5955, the term "adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(4) For the purposes of KRS 199.595 to 199.5955, the term "residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

Section 150. KRS 199.5954 is amended to read as follows:

(1) A child with special needs residing in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive medical assistance from this state upon the filing in the Department for Social Insurance, Cabinet for ***Families and Children***~~[Human Resources]~~, a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the Department for Medicaid Services, Cabinet for ***Health Services***~~[Human Resources]~~, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The Department for Medicaid Services, Cabinet for ***Health Services***~~[Human Resources]~~ shall consider recipients of medical assistance pursuant to this section as any other recipient of medical assistance under the laws of this state and shall process and make payment on claims on account of the recipient in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The Department for Medicaid Services, Cabinet for ***Health Services***~~[Human Resources]~~ shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department for Social Services, Cabinet for ***Families and Children***~~[Human Resources]~~ for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for ***Families and Children***~~[Human Resources]~~ shall make regulations implementing this subsection. The additional coverages and benefit amounts provided

pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, the regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

Section 151. KRS 199.5955 is amended to read as follows:

Consistent with federal law, the Cabinet for ***Families and Children***[~~Human Resources~~], in connection with the administration of KRS 199.595 to 199.5955 and any compact pursuant hereto shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV (e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The Cabinet for ***Families and Children***[~~Human Resources~~] shall apply for and administer all relevant federal aid in accordance with law.

Section 152. KRS 199.641 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Allowable costs" means all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "cost principles for nonprofit organizations," utilizing cost data from the child-caring facility's most recent yearly audited financial statement***;***[~~.~~]

(b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility***; and***[~~.~~]

(c) "Department" means the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) When the Department for Social Services chooses to place a child in a nonprofit child-caring facility, the department shall reimburse that facility the allowable cost of the child's care, subject to the limitation set forth in subsection (3) of this section.

(3) When the Department for Social Services chooses to place a child in a nonprofit child-caring facility, the rate of reimbursement for ***the***[~~such~~] child's care shall not exceed seventy-five percent (75%) of the average cost in the most comparable residential facility operated by the department. The rate shall be based on actual total facility occupancy for the most recent audited year or ninety percent (90%) of the facility capacity for the audited year, whichever is greater.

(4) The secretary shall, to the extent funds are appropriated, implement the reimbursement methodology set forth in this section, or may promulgate administrative regulations in accordance with KRS Chapter 13A to establish the rate of reimbursement for child-caring facilities which are consistent with the level of service provided. If funds are insufficient in any given fiscal year to fully fund this provision, rates shall be adjusted by determining the reimbursement schedule and adjusting by the ratio of available funds to estimated full cost.

Section 153. KRS 199.645 is amended to read as follows:

The Cabinet for ***Families and Children***[~~Human Resources~~] shall issue and enforce administrative regulations specifically addressing the unique situation of child-caring facilities and child-placing agencies which provide nonsecure care for children during the preadjudication phase of proceedings under KRS Chapters 630 and 635. ***These***[~~Such~~] facilities and agencies shall include those operated privately and those operated by units of local government. These ***administrative*** regulations shall include standards relating to the following:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical[~~ and health~~] services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Resident rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 154. KRS 199.892 is amended to read as follows:

In enacting legislation relating to the regulation of day-care centers, it is the intention of the General Assembly to enable the Cabinet for ***Families and Children***[~~Human Resources~~] to qualify to receive federal funds under provisions of the Federal Social Security Act and to provide for effective regulation of day-care centers.

Section 155. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for ***Families and Children***[~~ Human Resources~~];

(2) "Secretary" means secretary for ***families and children***[~~human resources~~];

(3) "Day-care center" means any child-care facility which provides full or part-time care, day or night, to at least seven (7) children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted, or a youth development agency. For the purposes of this section, "youth development agency" means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an outside-school-hours center for youth who are six (6) years of age or older, and for which there are no fee or scheduled care arrangements with the parent or guardian of the youth served.

Section 156. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child-care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day-care centers by the Cabinet for ***Families and Children and the Cabinet for Health Services***[~~ Human Resources~~] shall be unannounced.

(9) All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(10) All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(11) The Cabinet ***for Families and Children*** shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (9) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (9) of this section.

(12) Child day-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

Section 157. KRS 199.8982 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~;

(b) "Department" means the Department for Social Services; and

(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall meet the following minimum requirements:

1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;

3. Submit to a criminal record check as provided by KRS 17.165;

4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:

a. Basic health, safety, and sanitation;

b. Recognizing and reporting child abuse; and

c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;
2. Information about available child-care training; and
3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 158. KRS 199.8984 is amended to read as follows:

(1) The Child-Care Policy Council is created within the Cabinet for ***Families and Children***[~~Human Resources~~]. The council shall:

(a) Promote coordination and communication among state agencies responsible for child-care and early childhood education services;

(b) Serve as an advisor for state agencies responsible for child-care programs;

(c) Review state child-care programs and make recommendations to state agencies and the General Assembly related to program implementation, access to child care, the supply of child care, and coordination of child-care and other early childhood programs;

(d) Review and make recommendations on administrative regulations relating to child-care programs and services;

(e) Advise the cabinet on application requirements and distribution of contracts to local child-care resource and referral agencies; and

(f) Submit biennially to the Legislative Research Commission by October 1 in each odd-numbered year a report on the status of child care.

(2) The council shall be composed of seventeen (17) citizen members appointed by the Governor and shall include one (1) member of the House of Representatives appointed by the Speaker of the House and one (1) member of the Senate appointed by the Senate President. Members of the council shall serve for a term of four (4) years and until their successors are appointed and qualified; they shall be chosen to broadly represent public interest groups concerned with child-care services, professionals involved in the delivery of child-care services, nonprofit child-care providers, for-profit child-care providers, family child-care providers, employers, labor, resource and referral programs, parents, and the general public. The Governor shall appoint the chairman of the council, who shall also serve as one of the voting members of the council. The secretary for ***families and children***[~~human resources~~], the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council. The commissioner for social services shall be staff director for, and shall provide staff to, the council. The council shall meet at least quarterly and on other occasions as may be necessary. A majority of the appointed members shall constitute a quorum.

Section 159. KRS 199.899 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] shall conduct a market-rate survey at least biennially to determine the rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;

(b) Determine market rates; and

(c) Make public its findings.

(2) By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child-care programs which attain accreditation from a national organization that the cabinet determines has accreditation standards that contribute to high quality child care.

(3) In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that Area Development District.

Section 160. KRS 199.8992 is amended to read as follows:

(1) To the extent possible with available funds, the Cabinet for ***Families and Children***[~~Human Resources~~] shall develop

through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

(a) Maintain a uniform database in a format developed by the cabinet of all child-day-care providers licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 in the service area, including information on the availability of care;

(b) Provide consumer education to families seeking child-day-care services;

(c) Provide timely referrals of available child-day-care providers to families seeking child-day-care services;

(d) Recruit child-day-care providers in areas where there is an identified need as identified pursuant to paragraph (f) of this subsection;

(e) Coordinate, with the cabinet, training for child-day-care providers and provide technical assistance to employers, current and potential child-day-care providers, and the community at large;

(f) Collect and analyze data on the supply of, and demand for, child-day-care in the community;

(g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community;

(h) Provide written educational materials to parents and child-day-care providers; and

(i) Not operate a child-day-care center on behalf of an employer or on their own unless no existing provider is willing or able to provide the service at the current market rate. This paragraph shall not apply to child care provided by a resource and referral agency to an employer prior to July 14, 1992.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

(a) Coordinate existing resource and referral services;

(b) Expand resource and referral services to unserved areas; and

(c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

Section 161. KRS 199.8994 is amended to read as follows:

(1) All child-day-care funds administered by the cabinet, including ***Title***~~[Titles]~~ XX~~[and IV-A]~~ of the Social Security Act, shall be administered by the ***Cabinet for Families and Children***~~[cabinet's Department for Social Services]~~ to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.

(3) The cabinet shall, subject to the extent funds are available, ***cooperate with the Cabinet for Health Services to fund*** establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.

Section 162. KRS 199.8996 is amended to read as follows:

The Cabinet for ***Families and Children***~~[Human Resources]~~ shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all

Kentucky counties.

Section 163. KRS 199.900 is amended to read as follows:

(1) The secretary for ***families and children***[~~human resources~~] in coordination with the Department of Personnel is authorized to establish formal training programs within the Cabinet for ***Families and Children***[~~Human Resources~~] or within any of the divisions or sections of the cabinet for the training of necessary personnel for the administration of the programs of the cabinet. When courses of study, applicable to the program processes of the cabinet, are not available through cabinet instruction, arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose and such training shall be deemed to be a part of the cabinet training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, ***and these***[~~such~~] assignments ***are*** to relate directly to the work assignment of the employee. After consulting with the Department of Personnel, position classifications in the research series shall be established for employees on such work study assignments, and funds of the cabinet may be used to pay salaries commensurate with the appropriate classification while the employee is receiving[~~ such~~] training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of[~~ such~~] training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 164. KRS 200.010 is amended to read as follows:

As used in KRS Chapter 200, unless the context requires otherwise, "cabinet" means Cabinet for ***Families and Children***[~~Human Resources~~].

Section 165. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for ***Public*** Health[~~ Services~~], the commissioner of the Department of Medicaid Services, and the executive director of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child***;***[~~.~~]

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; and

(i) Develop services to meet the needs of children with an emotional disability.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 166. KRS 200.507 is amended to read as follows:

The secretary for ***families and children***[~~human resources~~], the designee of the State Department of Education, and the executive director of the Administrative Offices of the Courts shall ensure that the State Interagency Council for Services to Children with an Emotional Disability is formed by August 1, 1990. No member of the State Interagency Council shall receive compensation other than that received as a state employee.

Section 167. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment; and

(e) Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; and

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery.

(4) The secretary for ***families and children***[~~human resources~~] and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 168. KRS 200.580 is amended to read as follows:

The secretary for ***families and children***[~~human resources~~] shall:

(1) Make those services to children and their families known as "family preservation services" accessible to forty percent (40%) of children at imminent risk of being placed outside their homes by 1995 and eventually to all cases where the removal of a child is imminent and provision of such services appropriate;

(2) Ensure that the state-wide availability of family preservation services be accomplished in an orderly fashion allowing the development and evaluation of different program models necessary to provide services across the geographic diversity of the state; and

(3) Accomplish the implementation of family preservation services by consultation with professionals in the child welfare field, using any technical assistance available from the National Conference of State Legislatures and the Center for the Study of Social Policy.

Section 169. KRS 200.585 is amended to read as follows:

(1) The Department for Social Services shall be the lead administrative agency for family preservation services and may receive funding for the implementation of ***these***[~~such~~] services. The Department for Social Services shall:

(a) Provide the coordination of and planning for the implementation of family preservation services;

(b) Provide standards for family preservation services programs;

(c) Monitor ***these***[~~such~~] services to ensure they meet measurable standards of performance as set forth in state law and as developed by the Department for Social Services; and

(d) Provide the initial training and approve any ongoing training required by providers of family preservation services.

(2) The Department for Social Services may provide family preservation services directly or may contract with a private, nonprofit social service agency to provide ***these***[~~such~~] services. In the event the department provides family preservation services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker/case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family preservation services caseworkers and cases shall be included in the report as a separate category.

(3) In the event a nonprofit social service agency is contracted by the Department for Social Services, to provide family preservation services, the contract shall include:

(a) Requirements for provider acceptance of any client referred by the Cabinet for ***Families and Children***[~~Human Resources~~] for family preservation services;

(b) Limitation of caseload to four (4) or fewer families per caseworker;

(c) Provision of twenty-four (24) hour crisis intervention services to families served by the program;

(d) Provision for training of family preservation services staff to meet the following minimum standards:

1. Intensive training of not less than forty (40) hours to any therapist before family preservation services clients are assigned. This training is to be provided by individuals with recognized expertise regarding family preservation services and is to concern itself with the required knowledge skills, and techniques for success within the family preservation services model;

2. A plan for the continuing education of staff therapists after the initial forty (40) hours;

3. Training of not less than twenty (20) hours for a paraprofessional family aide before provision of services without the direct supervision of a family preservation services caseworker;

(e) Provide for and conduct internal program evaluation and cooperate with external evaluation as directed by the Department for Social Services;

(4) To qualify for continued funding under subsection (3) of this section, an agency contracting to provide family preservation services shall demonstrate an annual success rate of seventy-five percent (75%) in avoiding out-of-home placement six (6) months after the cessation of family preservation services.

Section 170. KRS 200.595 is amended to read as follows:

(1) The provision of family preservation services to a family shall constitute a reasonable effort by the Cabinet for ***Families and Children***~~[Human Resources]~~ to prevent the removal of a child from the child's home under KRS 620.140, provided that the family has received timely access to other services from the Cabinet for ***Families and Children***~~[Human Resources]~~ for which the family is eligible.

(2) Acceptance of family preservation services shall not be considered an admission of any allegation that initiated the investigation of the family, nor shall refusal of family preservation services be considered as evidence in any proceeding except where the issue is whether the Cabinet for ***Families and Children***~~[Human Resources]~~ has made reasonable efforts to prevent removal of a child.

(3) No family preservation services program shall compel any family member to engage in any activity or refrain from any activity which is not reasonably related to remedying a condition or conditions that gave rise or which could reasonably give rise to any finding of child abuse, neglect or dependency.

Section 171. KRS 200.600 is amended to read as follows:

(1) The secretary for ***families and children***~~[human resources]~~ shall conduct a yearly evaluation of family preservation services which shall include the following:

(a) The number of families in which family preservation services would be an available alternative to placement of the child if available;

(b) The number of families receiving family preservation services, the number of children in those families, and the number of children in those families who would have been placed in out-of-home care if family preservation services had not been available;

(c) Among those families receiving family preservation services, the number of children placed outside the home;

(d) The average cost per family of providing family preservation services;

(e) The estimated cost of out-of-home placement which would have been expended on behalf of those children who received family preservation services based on average lengths of stay and average costs of out-of-home placements;

(f) The number of children who remain unified with their families six (6) months and one (1) year after completion of family preservation services; and

(g) An overall evaluation of the progress of family preservation services programs during the preceding year, recommendations for improvements in delivery of this service, and a plan for the continued development of family preservation services to ensure progress toward statewide availability.

Section 172. KRS 200.605 is amended to read as follows:

(1) The secretary for ***families and children***~~[human resources]~~ may redirect funds from amounts budgeted to serve children in out-of-home placement for the purposes of providing family preservation services to children who would otherwise be removed from their homes.

(2) The secretary for ***families and children***~~[human resources]~~ may use any funds that become available through an increase in reimbursement of funds from Title 4-E of the Social Security Act as amended by P.L. 96-272 for the purposes of providing family preservation services to children who would otherwise be removed from their homes.

Section 173. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning, resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(3) "Child find" means a system to identify, locate, and evaluate all infants and toddlers with disabilities who are eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state

agencies and departments;

(4) "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(5) "District" means one (1) of the fifteen (15) area development districts;

(6) "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(7) "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the child multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by entities receiving public funds using qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include, but not be limited to, the following:

(a) Screening services;
(b) Evaluation services;
(c) Assessment services;
(d) Service coordination;
(e) Transportation and related costs for accessing early intervention services;
(f) Family services including counseling, psychological, and social work services;
(g) Health services including medical services for diagnostic and evaluation purposes only;
(h) Nutrition services;
(i) Occupational therapy services;
(j) Physical therapy services;
(k) Communication development services;
(l) Sensory development services;
(m) Developmental intervention services;
(n) Assistive technology services; and
(o) Respite services;

(8) "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(9) "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(10) "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

(a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development; or

(b) The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;

(11) "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work; nursing; or education;

(12) "Point of entry" means an easily-identifiable, highly-accessible nonstigmatized entry into services; and

(13) "Qualified service provider" means an entity, including but not limited to, an individual, program, department or agency, responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services.

Section 174. KRS 200.656 is amended to read as follows:

There is hereby created in state government the Kentucky Early Intervention System to provide services for infants and toddlers with a disability and their families. For administrative purposes, the Kentucky Early Intervention System shall be attached to the Cabinet for ***Health Services***[~~Human Resources~~].

Section 175. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Cabinet for ***Health Services***[~~Human Resources~~]. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for ***Public*** Health[~~ Services~~];

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Social Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for Handicapped Children.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to five (5) years of age;

(f) Identify sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part H of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications; and

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 176. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Cabinet" means the Kentucky Cabinet for ***Health Services***[~~Human Resources~~];

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

  (a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, approved by the Kentucky Cabinet for ***Health Services***[~~Human Resources~~] as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

  (b) A hospital, institution, or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

  (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

  (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

  (c) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

  (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program; or

  (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 177. KRS 202A.201 is amended to read as follows:

(1) When an inmate of any penal and correctional institution is reported by the staff of that institution to the Department of

Corrections as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the Department of Corrections shall have an examination conducted on the inmate by a mental health professional.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the Department of Corrections, the commissioner of the Department of Corrections may then request of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ the inmate's transfer to a hospital or forensic psychiatric facility. If the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ agrees that a transfer is necessary, the person shall be transferred to a Cabinet for ***Health Services***~~[Human Resources]~~ facility designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, where the person shall remain until the staff of the facility which received him advises the commissioner of the Department of Corrections that the person's condition is such that he may be returned to the institution from which he came. No transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The commissioner of the Department of Corrections shall then authorize his return. If the prisoner's sentence expires during his stay in the facility and he is still in need of involuntary hospitalization, the staff of the facility shall petition the applicable District Court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the commissioner shall:

- (a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;
- (b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;
- (c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the Department of Corrections, except upon a finding, not arbitrarily made, of good cause for not permitting the presentation;
- (d) Provide an independent decision maker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;
- (e) Issue a written statement by the factfinder as to the evidence relied on and the reasons for transferring the prisoner; and
- (f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the Department of Corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 178. KRS 202A.241 is amended to read as follows:

All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

Section 179. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a person who is employed as a physician of an ICF/MR;

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified mental retardation professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for ***Health Services***~~[Human Resources]~~;

(4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

- (a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, approved by the Kentucky Cabinet for ***Health Services***[~~Human Resources~~] as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR" means an intermediate care facility approved by the cabinet for the evaluation, care, and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental retardation professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services; and

(d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the provisions of this chapter;

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 180. KRS 205.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Families and Children. For the purposes of KRS 205.510 to 205.645 and KRS 205.8451 to 205.8483, "cabinet" means the Cabinet for Health Services***[~~Human Resources~~];

(2) "Secretary" means the secretary for ***Families and Children***[~~human resources~~] or his authorized representative***. For the purpose of KRS 205.510 to 205.645 and KRS 205.8451 to 205.8483, "secretary" means the secretary of the Cabinet for Health Services or his authorized representative;***

(3) "Public assistance" means money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children, or persons with whom a needy child lives or a family containing a combination of these categories, except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device, or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;

(4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments, and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;

(5) "Parent", in addition to biological or adoptive parent, shall include stepparent;

(6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and

who does not have otherwise provided for him a subsistence compatible with decency and health;

(7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;

(9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation, or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and maintained in residence;

(12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) "Person determined to be potentially responsible" means any person who:

(a) Is not aged, blind, disabled, incapacitated, or needed in the home:

1. Because of the illness or incapacity of a member of the family; or

2. Because of children in the home under the age of six; or

(b) Volunteers for such determination;

(14) As used in KRS 205.650 to 205.700, unless the context otherwise requires:

(a) "Community work experience program" shall mean a program to provide work experience and training for recipients of public assistance who are not otherwise able to obtain employment or who are not actively participating in training or education programs;

(b) "Designated geographic area" shall mean one (1) county or a portion of one (1) county selected by the secretary as the site of a community work experience program; and

(c) "Recipient" shall mean a person who currently receives benefits from public assistance;

(15) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(16) "Adult day-care center" means any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, marriage, or adoption.

Section 181. KRS 205.177 is amended to read as follows:

(1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in the possession of the Justice Cabinet, Cabinet for ***Health Services, Cabinet for Families and Children***[~~Human Resources~~], Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if ***the***[~~such~~] agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

(2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

Section 182. KRS 205.179 is amended to read as follows:

The Cabinet for ***Families and Children***[~~Human Resources~~] shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the Division of Aging Services and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 183. KRS 205.180 is amended to read as follows:

The secretary for ***families and children***[~~human resources~~] may authorize the destruction of such original reports and records as have been properly recorded or summarized in the permanent records of the cabinet or are no longer considered necessary to the proper administration of the cabinet. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of trust and agency accounts.

Section 184. KRS 205.2002 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] shall take all necessary actions to ensure that at least five percent (5%) of all adults receiving aid to families with dependent children benefits as of July 15, 1988, shall, by July 1, 1989, be enrolled and participating in college, or a vocational training program, or a GED program, or employed and working not less than twenty-three (23) hours per week. For each year after July 1, 1989, the cabinet shall move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment until the total number of adult recipients employed or in training or education programs reaches twenty percent (20%) of total recipients. In meeting this goal, the cabinet shall not count any adult recipient leaving the Aid to Families with Dependent Children Program for reasons other than entering an education or training program or receiving a job.

(2) The cabinet shall file an annual report with the Legislative Research Commission and the Interim Joint Committee on Health and Welfare documenting the results of the cabinet's efforts to move aid to families with dependent children recipients into training or education programs and employment, and meeting the goals set forth in subsection (1) of this section. The report shall also include a plan reflecting what actions are being taken to meet these goals. The cabinet shall take into account the following factors to determine compliance with the goals set forth in subsection (1) of this section:

(a) Adults aged sixty (60) shall not be included;

(b) Adults receiving aid to families with dependent children due to disability shall not be included;

(c) For purposes of meeting the criteria related to employed or working not less than twenty-three (23) hours per week, adults shall be considered if the aid to families with dependent children was discontinued during the reporting period for earned income and such case has remained closed for not less than ninety (90) days.

(3) If the cabinet fails to meet the goal of moving six percent (6%) of current aid to families with dependent children recipients into education or training programs or employment by July 1, 1990, the general fund share of the cabinet's cost of administering the Aid to Families with Dependent Children Program shall be reduced by a percentage or portion thereof equal to the percentage by which the cabinet fails to meet the goals set forth in subsection (1) of this section. The reduction in general fund share shall continue in the same manner if the cabinet fails to move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment.

Section 185. KRS 205.201 is amended to read as follows:

The duties of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be to:

(1) Promote and aid in the establishment of local programs and services for the aging;

(2) Conduct programs to educate the public as to problems of the aging;

(3) Review existing state programs and services for the aging and to make recommendations to the Governor, to the appropriate department and agencies of the state, and to the Legislature for improvements in and additions to such programs and services;

(4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;

(5) Conduct and encourage other organizations to conduct studies concerning the aging;

(6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;

(7) Provide services designed to meet the needs of the minority elderly in programs administered by the cabinet. The cabinet shall annually prepare a report identifying the special needs of the minority elderly population in the Commonwealth as compared to the elderly population at large. The report shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The report shall, at a minimum:

(a) Contain an overview of the health status of minority elderly Kentuckians;

(b) Identify specific diseases and health conditions for which the minority elderly are at greater risk than the general population;

(c) Identify problems experienced by the minority elderly in obtaining services from governmental agencies; and

(d) Identify programs at the state and local level designed to specifically meet the needs of the minority elderly;

(8) In preparing the report required by subsection (7) of this section, the cabinet shall solicit and consider the input of individuals and organizations representing the concerns of the minority elderly population as relates to:

(a) Programs and services needed by the minority elderly;

(b) The extent to which existing programs do not meet the needs of the minority elderly;

(c) The accessibility of existing programs to the minority elderly;

(d) The availability and adequacy of information regarding existing services;

(e) Health problems the minority elderly experience at a higher rate than the nonminority elderly population; and

(f) Financial, social, and other barriers experienced by the minority elderly in obtaining services;

(9) Conduct an outreach program that provides information to minority elderly Kentuckians about health and social problems experienced by minority elderly persons and available programs to address those problems, as identified in the report prepared pursuant to subsection (7) of this section; and

(10) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

Section 186. KRS 205.202 is amended to read as follows:

The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be empowered to accept and expend gifts and grants from any source. Such moneys shall go into a trust and agency fund to be administered by the cabinet in furtherance of the purposes of the provisions of KRS 205.201 to 205.204.

Section 187. KRS 205.203 is amended to read as follows:

(1) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] may provide, within budgetary limitations, for in-home services to the aging to include, but not necessarily limited to: homemaker services; home-help therapy services; day-care services; home-delivered meal services; transportation services; foster care services; and health services.

(2) The cabinet is authorized to collect fees for services rendered pursuant to this section in accordance with a fee schedule adopted by the secretary for ***families and children***[~~human resources~~]. The fee schedule shall take into consideration the ability of the patient or client to pay for such services. Fees shall not be collected from any person who is "needy aged" as defined by KRS 205.010.

(3) The secretary may utilize and promote available or potential community resources for the delivery of services to the aging and shall, when he deems appropriate, contract for services with local, community, private agencies, and individuals, including relatives of patients and clients, when such services would not otherwise be available without cost.

(4) The services to the aging authorized under this section are in addition and supplementary to any services to which the aging may be entitled under any other federal, state, or local governmental law, regulation, or program.

(5) The services to the aging authorized under this section shall be designed to meet the needs of the minority elderly as identified by the Cabinet for ***Families and Children***[~~Human Resources~~] pursuant to KRS 205.201.

Section 188. KRS 205.204 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~], unless otherwise directed by an executive order of the Governor, is designated the agency of this state for the purpose of administering the Older Americans Act of 1965, Public Law 89-73, including all amendments thereto. In administering programs and allocating funds under the Older Americans Act, the cabinet shall design programs and allocate funds to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.

(2) The secretary for ***families and children***[~~human resources~~] may promulgate such administrative regulations as are necessary to comply with any requirement imposed or required by federal law.

Section 189. KRS 205.217 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Case manager" means an employee of the area development district or an agency under contract with the area development district who shall assist any functionally impaired person in identifying and accessing the long term care services most appropriate to the individual's social and medical needs.

(b) "Functionally impaired person" means any person who is unable to perform without assistance any of the activities of daily living including, but not limited to dressing, bathing, toileting, transferring, or feeding, or any of the instrumental activities of daily living including but not limited to meal preparation, laundry, housecleaning, budgeting, and shopping.

(2) There shall be established within the Cabinet for ***Families and Children***[~~Human Resources~~] a Long-term Care Case Management Demonstration Program to consolidate and coordinate all services provided or funded by the cabinet with respect to long-term care, conducted in at least three (3) area development districts. This demonstration program shall serve as the focal point for the provision of all services provided to functionally impaired persons to assure that services are consistent with the following goals:

(a) That functionally impaired persons be allowed to live independently at home or with others as long as the citizen desires without requiring inappropriate or premature institutionalization;

(b) That services provided or funded by the cabinet promote independent living by functionally impaired persons and prevent or minimize illness or social isolation;

(c) That institutional services be used only as a last resort when in-home or community based support services are not available or are not adequate to meet the needs of functionally impaired persons;

(d) That a single entry point for all services for functionally impaired persons be available to all persons in need of information about or access to the services; and

(e) That the use of informal providers of care, such as friends and relatives of functionally impaired persons, be used as long as possible before paid services are utilized.

(3) The following programs and services shall be included in the Long-term Care Case Management Demonstration Program:

(a) Hospital-based long term care services including dual licensed beds, swing beds and physical rehabilitation services, skilled nursing facility services, intermediate care facility services, nursing facility services, home health services, and home and community based waiver services funded by the Kentucky Medical Assistance Program;

(b) In-home and community based services for elderly persons funded under the Older Americans Act (42 U.S.C. Section 3001 et seq.) and Title XX of the Social Security Act (42 U.S.C. Sections 1397-1397f);

(c) Services provided under the home care program pursuant to KRS 205.460; and

(d) Personal care home services or domiciliary care funded by supplemental payments to persons receiving supplemental security income benefits pursuant to KRS 205.245.

(4) The Long-term Care Case Management Demonstration Program shall employ a system of case management to assure that appropriate services are provided to all persons using or applying for the services set forth in subsection (3) of this section, and that the services are consistent with the goals set forth in subsection (2) of this section. All persons applying for these services shall be assigned a case manager. The duties of the case manager shall include preparation of a general plan of care, based on the person's need for services, arranging placements or other needed services or equipment, coordination and management of the applicant through the eligibility process for these services, and reviewing each case on a periodic basis to assure the plan of care is being followed. Case management shall not include the determination of eligibility for Medicaid covered services, long-term care facility preadmission reviews, level of care determinations for purposes of Medicaid reimbursement, or peer review activities. The general plan of care shall not replace a daily care plan prescribed by a physician for treatment of a person in a hospital or long-term care facility or receiving home health services. The general plan of care shall identify the categories of services or type of placement required and the providers of the services. Case managers shall serve as advocates for applicants for the services set forth in subsection (3) of this section, and shall interact with the existing administrative structure within the Cabinet for ***Families and Children***~~[Human Resources]~~ to meet the goals stated in subsection (2) of this section. Patients discharged from a hospital to a long-term care facility shall receive case management services in the hospital on a timely basis or immediately after admission to a long-term care facility. The goal of each case plan shall be the provision of services in the least restrictive setting designed to best meet the individual needs of the functionally impaired person. When persons are determined to need services to maintain independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member, or volunteers.

(5) The cabinet, through the Long-term Care Demonstration Program, shall provide access to information, counseling and screening as appropriate, for persons potentially in need of long-term care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. In administering the Long-Term Care Demonstration Program, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201. The cabinet may charge a fee for providing information, counseling, and screening services based on the client's ability to pay.

(6) The secretary for ***families and children***~~[human resources]~~ may promulgate administrative regulations necessary to implement the Long-term Care Demonstration Program.

Section 190. KRS 205.245 is amended to read as follows:

Money payments made by the Cabinet for ***Families and Children***~~[Human Resources]~~ to the needy aged, needy blind, and the needy permanently and totally disabled shall be:

(1) Mandatory state supplementation of the supplemental security income program as established by federal law and regulations and administered in the manner agreed to by the secretary of the United States Department of Health, Education, and Welfare and the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~, or their authorized representatives; and

(2) Supplemental payments to persons requiring special living arrangements as they become eligible for the supplemental security income program, to insure the same level of care as those persons covered under the provisions of subsection (1) of this section.

Section 191. KRS 205.400 is amended to read as follows:

(1) There is established within the Cabinet for ***Families and Children***~~[Human Resources]~~ an Energy Cost Assistance Program for making money payments to or on behalf of citizens of the Commonwealth for the purpose of purchasing or supplementing the cost of energy for household use.

(2) Citizens of the Commonwealth who incur expenses for providing energy by purchase from suppliers, by their own labors, or through the payment of rent, whether or not included in a charge for other goods and services, which includes the cost of energy supplied to premises occupied as their principal residence shall be eligible to receive the benefit of the payments to themselves or to providers of energy to such household if:

(a) The citizen is sixty-two (62) years of age or older and has or is a member of a family having a gross income equal to or less than one hundred twenty-five percent (125%) of the poverty level of income for an individual or family of that size designated by the Community Services Administration of the United States government; or

(b) The citizen is blind or permanently and totally disabled and receiving supplemental security income benefits under the Social Security Act or is blind or permanently and totally disabled and is currently eligible for Medicaid benefits under the Medical Assistance Program.

(3) The cabinet shall establish by regulation a schedule of payments and benefit levels under this program to be based on income, resources and family size. In no event shall payments be made to or on behalf of any person or family whose gross income from all sources exceeds one hundred twenty-five percent (125%) of the poverty level of income as provided for such individuals or family by the Community Services Administration of the United States government.

(4) Payments made under this section shall be for a period of four (4) months during each twelve (12) month period for which funds are available. At its discretion and to insure the proper application of the funds appropriated for this purpose, the cabinet may elect to make payments to vendors or suppliers or jointly to vendors and eligible recipients.

Section 192. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 and 205.465:

(1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.

(2) "Core services" means those services, including but not limited to client assessment and case management services, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.

(3) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~.

(4) "District" means an area development district designated~~[as such]~~ pursuant to KRS 147A.050.

(5) "Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.

(6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall include chore services, home delivered meals, home health aide services, homemaker services, respite services, escort services, and home repair services.

(7) "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.

(8) "Home delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is homebound by reason of illness, incapacity or disability.

(9) "Home health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(10) "Homemaker services" means general household activities, including but not limited to nonmedical personal care, shopping, meal preparation and routine household care, provided by a trained homemaker when the person regularly responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.

(11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.

(12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

Section 193. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the Advisory Council for Medical Assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(4) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(5) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(6) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(9) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(10) "Primary care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(11) "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for ***Families and Children***[~~Human Resources~~] as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for ***health services***[~~human resources~~] or his designee;

(13) "Vendor payment" means a payment for medical care which is paid by the Cabinet for ***Health Services***[~~Human Resources~~] directly to the authorized person or institution which rendered medical care to an eligible recipient;

(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.

Section 194. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

(2) The General Assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for ***health services***[~~human resources~~] may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.

(4) It is the intention of the General Assembly to comply with the provisions of Title XIX of the Social Security Act which require that the Kentucky Medical Assistance Program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky Medical Assistance Program.

(5) The Kentucky Medical Assistance Program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

Section 195. KRS 205.540 is amended to read as follows:

(1) An Advisory Council for Medical Assistance shall be established in the state government. The council shall consist of eighteen (18) members. The secretary for ***health services***[~~human resources~~] shall be an ex officio member. The other

seventeen (17) members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until his successor is appointed and qualified. Ten (10) of the appointments shall be made one (1) from each list of three (3) nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmacists Association; the Kentucky Association of Health Care Facilities; the Kentucky Nurses' Association; the State Board of Podiatry; the Kentucky Home Health Association; the Kentucky Optometric Association; and the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other seven (7) appointive members shall be health care advocates knowledgeable about health care and the health care industry, and shall include three (3) medical assistance recipients, one (1) representative of a recognized consumer advocacy group representing the elderly; and three (3) representatives of recognized consumer advocacy groups whose membership includes low income persons, children and youth, women, minorities, and disabled persons.

(2) Each appointive member of the council shall serve without compensation but each council member not otherwise compensated for his time or expenses shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

(5) No consumer member of the council shall have a fiduciary relationship or interest in any health care facility or service.

Section 196. KRS 205.550 is amended to read as follows:

(1) The council shall advise the Cabinet for ***Health Services***~~[Human Resources]~~ about health and medical care services.

(2) The council shall have the opportunity for participation in policy development and program administration and shall advise the Cabinet for ***Health Services***~~[Human Resources]~~ on such matters.

(3) The council shall give advice regarding how to further the participation of recipient members in the policy development and program administration of the Medical Assistance Program.

Section 197. KRS 205.558 is amended to read as follows:

(1) To prevent inappropriate placement and to contain costs related thereto, the secretary for ***health services***~~[human resources]~~ shall implement a statewide prescreening and admissions review system, including the imposition of a resource means test, for all long-term care facilities and beds, as defined under KRS Chapter 216, and any acute care hospital based skilled nursing or intermediate care beds participating under Title XIX of the Social Security Act, regardless of the payment status of the resident upon admission. Any person having resources sufficient to cover the cost of care for at least three hundred sixty-five (365) days following admission may be admitted to a long-term care bed or facility if such person so desires; provided, however, that if a person:

(a) Is admitted to a long-term care facility or acute care hospital based skilled nursing or intermediate care bed without participating in the prescreening and admissions review system; or

(b) Participates in the prescreening and admissions review system and is not authorized for placement in a long-term care facility or acute care hospital based skilled nursing or intermediate care bed;

such person is not eligible for medical assistance payment for skilled nursing or intermediate care for one (1) year after the date of the person's admission to a skilled nursing or intermediate care facility or acute care hospital based skilled nursing or intermediate care bed unless the person subsequently participates in the prescreening and admissions review system and is authorized for admission to an intermediate care or skilled nursing facility or acute care hospital based skilled nursing or intermediate care bed.

(2) To implement the provisions of this section the cabinet shall establish preadmission screening teams composed of a nurse, social worker and physician.

(3) Before preauthorization of any person for admission to an intermediate care facility or skilled care facility or acute care hospital based skilled nursing or intermediate care bed, the cabinet shall first make the following determinations:

(a) The health status and care needs of the person requires immediate institutionalization in an intermediate care facility or skilled nursing facility or acute care hospital based skilled nursing or intermediate care bed;

(b) The person and his family have been fully advised of alternatives to institutional care and possible sources of reimbursement for such care;

(c) Alternatives to institutional care are not feasible; and

(d) Other such determinations as specified by administrative regulations promulgated by the cabinet under KRS Chapter 13A.

(4) Admission of a person to an intermediate care facility, or a skilled nursing facility without first obtaining prior authorization from the Cabinet for ***Health Services***~~[Human Resources]~~ shall constitute a Class B violation.

(5) The secretary for the cabinet shall promulgate such administrative regulations, subject to KRS Chapter 13A, as necessary to implement this section.

Section 198. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for ***Health Services***~~[Human Resources]~~ undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for ***Health Services***~~[Human Resources]~~ after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified ***in this paragraph***~~[herein]~~;

(h) Services provided by health care delivery networks as defined in KRS 216.900; and

(i) Services provided by midlevel health care practitioners as defined in KRS 216.900.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for ***Health Services***~~[Human Resources]~~ with respect to the bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the Medical Assistance Program, the Cabinet for ***Health Services***~~[Human Resources]~~ shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. Department of Labor. Medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for ***Health Services***~~[Human Resources]~~ if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for ***Health Services***[~~Human Resources~~]. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for ***Health Services***[~~Human Resources~~]. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for ***Health Services***[~~Human Resources~~]; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~] shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards, provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family practice physicians practicing in geographic areas with no more than one (1) primary care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for ***Health Services***[~~Human Resources~~] may make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 199. KRS 205.565 is amended to read as follows:

(1) For the purposes of this section, a "pediatric teaching hospital" is defined as an acute care hospital as licensed under KRS Chapter 216B and which has designated and operates no less than one hundred fifty (150) beds for pediatric services and which is either operated by one (1) of the Commonwealth's schools of medicine and which has a pediatric teaching program or which has an affiliation agreement for pediatric services, teaching, and research with a school of medicine for the Commonwealth.

(2) For purposes of inpatient hospital reimbursement under the Kentucky Medical Assistance Program, the Cabinet for ***Health Services***~~[Human Resources]~~ shall recognize the unique costs of any pediatric teaching hospital.

Section 200. KRS 205.594 is amended to read as follows:

As used in KRS 205.593 to 205.598, the term "insurer" includes a group health plan, as defined in Section 607(1) of the Employment Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a health service benefit plan.

(1) Health insurers shall be prohibited from denying enrollment of a child under the health coverage of the child's parent on the grounds that:
   (a) The child was born out of wedlock;
   (b) The child is not claimed as a dependent on the parent's federal income tax return; or
   (c) The child does not reside with the parent or in the health insurer's area.

(2) If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall be required:
   (a) To permit the parent to enroll under the family coverage any child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;
   (b) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for ***Families and Children***~~[Human Resources]~~; and
   (c) Not to disenroll, or eliminate coverage of, a child unless the insurer is provided satisfactory written evidence that:
      1. A court or administrative order requiring coverage of the child is no longer in effect; or
      2. The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of the disenrollment.

Section 201. KRS 205.595 is amended to read as follows:

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the Commonwealth, the employer is required:

(1) To permit the parent to enroll under family coverage any child who is otherwise eligible for the coverage, without regard to any enrollment season restrictions;

(2) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for ***Families and Children***~~[Human Resources]~~;

(3) Not to disenroll or eliminate coverage of a child unless:
   (a) The employer is provided satisfactory written evidence that a court or administrative order requiring coverage of the child is no longer in effect, or that the child is or will be enrolled in comparable health coverage which will take effect no later than the effective date of the disenrollment; or
   (b) The employer has eliminated family health coverage for all of its employees; and

(4) To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, except that the amount withheld may not exceed the maximum amount permitted to be withheld under Section 303(b) of the Federal Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

Section 202. KRS 205.598 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ shall withhold the wages, salary, or other employment income of, and require withholding amounts from state tax refunds to, any person who:
   (a) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance;
   (b) Has received payment from a third party for the costs of the services for the child; but
   (c) Has not used these payments to reimburse either the other parent or guardian of the child, or the provider of the services.

(2) Any claims for current or past-due child support income shall take priority over the claims for the costs of reimbursing the Medical Assistance Program for child medical support.

Section 203. KRS 205.623 is amended to read as follows:

(1) All insurance companies licensed under KRS Chapter 304 shall provide upon request to the Cabinet for ***Health Services***[~~Human Resources~~], by electronic means and in the format prescribed by the cabinet, coverage information and claims paid data on Medicaid eligible policyholders and dependents. The data obtained on Medicaid eligibles shall be used by the cabinet to determine the availability of other medical benefits in order to ascertain Medicaid is the payor of last resort.

(2) All information obtained by the cabinet pursuant to this section shall be confidential and shall not be open for public inspection.

Section 204. KRS 205.624 is amended to read as follows:

(1) An applicant or recipient shall be deemed to have made to the cabinet an assignment of his rights to third-party payments to the extent of medical assistance paid on behalf of the recipient under Title XIX of the Social Security Act. The applicant or recipient shall be informed in writing by the cabinet of such assignment.

(2) The cabinet shall have the right of recovery which a recipient may have for the cost of hospitalization, pharmaceutical services, physician services, nursing services, and other medical services not to exceed the amount of funds expended by the cabinet for such care and treatment of the recipient under the provisions of Title XIX of the Social Security Act.

(a) If a payment for medical assistance is made, the cabinet, to enforce its right, may:

1. Intervene or join in an action or proceeding brought by the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors against a third party who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled recipient, in state or federal court; or

2. Institute and prosecute legal proceedings against a third party who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled recipient, in state or federal court, either alone or in conjunction with the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors; or

3. Institute the proceedings in its own name or in the name of the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors.

(b) The injured, diseased, or disabled person may proceed in his own name, collecting costs without the necessity of joining the cabinet or the Commonwealth as a named party, provided the injured, diseased, or disabled person shall notify the cabinet of the action or proceeding entered into upon commencement of the action or proceeding. The injured, diseased, or disabled person must notify the cabinet of any settlement or judgment of his or her claim.

(c) In the case of an applicant for or recipient of medical assistance whose eligibility is based on deprivation of parental care or support due to absence of a parent from the home, the cabinet may:

1. Initiate a civil action or other legal proceedings to secure repayment of medical assistance expenditures for which the absent parent is liable; and

2. Provide for the payment of reasonable administrative costs incurred by such other state or county agency requested by the cabinet to assist in the enforcement of securing repayment from the absent parent.

(3) Each insurer issuing policies or contracts under Subtitle 17, 18, 32, or 38 of KRS Chapter 304 shall cooperate fully with the Cabinet for ***Health Services***[~~Human Resources~~] or an authorized designee of the cabinet in order for the cabinet to comply with the provisions of subsection (1) of this section.

Section 205. KRS 205.6310 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall establish a system within the Medical Assistance Program to reduce unnecessary hospital emergency room utilization and costs by redefining and controlling hospital emergency utilization. The cabinet shall establish by promulgation of administrative regulations, pursuant to KRS Chapter 13A, the following:

(1) Criteria and procedures, at least annually updated, that differentiate children and adults, and which conform to the Federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. sec. 1395dd), as amended, and any other applicable federal law or regulation for determining if a medical emergency exists;

(2) Reimbursement rates that provide for nominal reimbursement of emergency room care for care that does not meet the criteria established for a medical emergency;

(3) Reimbursement, at rates determined by the cabinet, for ancillary services which, based upon the symptoms of the patient, are medically appropriate to determine if a medical emergency exists;

(4) Except for emergency room services rendered to children under the age of six (6), prohibition of reimbursement at hospital emergency room rates for diagnosis and treatment for a condition that does not meet the criteria established for a medical emergency; and

(5) The provisions of this section shall apply to any managed care program for Medicaid recipients.

The cabinet or its designated peer review organization shall review all claims for payment of nonemergency hospital care and deny payment for any ancillary services determined as not medically appropriate.

Section 206. KRS 205.6314 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review the Medical Assistance Program reimbursement rates for emergency transportation providers to determine if existing rates are fair and reasonable. Notwithstanding this review, the cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A do the following:

(1) Prescribe reimbursement rates for emergency transportation providers to ensure that emergency rates are paid only for transporting medical assistance recipients to the emergency room of a hospital in emergency situations;

(2) Establish, in nonemergency cases, lower medical assistance reimbursement rates for emergency transportation providers for the transportation of stretcher patients from nursing homes to physician offices or hospitals; and

(3) Establish a verification system that requires medical providers to confirm that medical assistance recipients have appointments for medical services and that medical services were medically necessary and were obtained prior to payment by the cabinet to the emergency transportation provider.

Section 207. KRS 205.6316 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication;

(4) A dispensing fee for each prescription in accordance with the findings of the report submitted by the cabinet pursuant to KRS 205.561.

Section 208. KRS 205.6318 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review the available technology associated with the medical assistance system to determine which technology is best suited to enhance program service operation, monitoring ability, and fraud and abuse detection. This shall include the ability to provide on-line access to data files to allow cross-analysis of provider and recipient utilization patterns. The cabinet shall by promulgation of administrative regulations, pursuant to KRS Chapter 13A, establish an integrated system to enhance program integrity, using a combination of staff, computer technology, and contractual services to identify potential fraud, abuse, and misutilization of services. This system shall:

(1) Utilize statisticians, program specialists, accountants, nurses, and other medical specialists to review the Medical Assistance Program to identify patterns of provider and recipient behavior that contributes to unnecessary or abusive use of program services;

(2) Utilize computer capability through contractual services or the purchase of computer software to detect the unbundling of claims and other techniques used by providers to enhance reimbursement;

(3) Impose utilization controls on the expenditures in respiratory, physical, speech, and occupational therapy and durable medical equipment provided to nursing home residents, through the use of established medical criteria or preauthorization of ancillary therapies;

(4) Establish state audit and edit requirements that exceed the federal audit and edit requirements;

(5) Obtain access to necessary data from the fiscal agent of each medical provider;

(6) Review the efficiency and effectiveness of the fraud and abuse detection and investigation process to determine whether changes shall be made;

(7) Direct that fraud and abuse detection and investigation components shall be active in initiating investigations. The fraud and abuse detection, investigation and prosecution functions shall be integrated, with access to information in files maintained by the Department for Social Insurance and the Department for Medicaid Services;

(8) Review penalties for deterrent value for medical providers that are found to have abused Medicaid regulations and statutes; and

(9) Provide for a proactive effort to reduce costs for institutionalized program participants. Program officials shall seek to implement innovative or experimental demonstration programs that aim to control costs.

Section 209. KRS 205.6320 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall seek to strengthen the managed care component of the KenPAC Program. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(a) Inclusion of noninstitutionalized blind, aged, and disabled recipients in an effort to reduce inappropriate usage as permitted by federal Medicaid regulations;

(b) Financial incentives for KenPAC physicians who effectively manage the care of their patients. These incentives may include an increase in the case management fee for demonstrated effective case management, or through other arrangements that encourage the effective and efficient management of patients. Clear and concise administrative regulations promulgated under KRS Chapter 13A shall be established by the cabinet to determine physician qualification for the incentives;

(c) A pilot project to establish an oversight and education program in the KenPAC system to assist with patient education regarding the appropriate and effective use of the system and to assist providers with more efficient management of patients;

(d) Criteria to avoid duplication of the provision of early and periodic screening, diagnosis, and treatment type services to children in the KenPAC Program;

(e) A review of the feasibility of a demonstration project to allow health maintenance organizations to bid on the provision of services to KenPAC participants;

(f) Extension of KenPAC to all counties within the state. The cabinet shall determine the feasibility of working with state-supported medical schools to obtain physicians in the counties where KenPAC does not operate; and

(g) More stringent reporting and verification requirements in contracts with KenPAC physicians regarding verification of services provided to KenPAC patients.

(2) The secretary shall promulgate by administrative regulation standards for access and quality which any health maintenance organizations serving Medicaid recipients shall meet. The secretary shall not provide Medicaid services through a health maintenance organization which does not demonstrate the capacity to meet the standards. The standards shall address at least the following subjects:

(a) Access to care including patient to physician ratios, availability of appropriate specialists, distance to care, travel and waiting times, and physical and language barriers;

(b) Internal and external methods for monitoring quality of care;

(c) Data collection and reporting, including provision of data on utilization, outcomes, enrollee satisfaction, and the number, type, and resolution of grievances and complaints, with subpopulation data for at risk populations;

(d) Due process procedures including written notice of appeal rights, timelines for resolution of complaints, and expedited appeals processes;

(e) Consumer representation and patient advocacy; and

(f) Marketing practices including prohibited practices and standards for advertisements and printed marketing materials.

Section 210. KRS 205.6322 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall seek to prohibit the sheltering of assets in medical assistance long-term care cases by promulgation of administrative regulations, pursuant to KRS Chapter 13A, that establish the following:

(1) Consideration of assets placed in Medicaid-qualifying trusts as a prohibited transfer of resources, to the extent prohibited by federal law;

(2) Revision of Medicaid policy to provide that assets funding the purchase of an annuity shall be treated as a transfer of resources unless the annuity is actuarially sound as defined in administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A;

(3) Revision of Medicaid policy to treat income producing property as an available resource to the extent allowed by federal law;

(4) Review of Medicaid eligibility procedures and operation to improve eligibility verification and detection of fraud and abuse; and

(5) Review of the feasibility of instituting a photographic identification card, possibly in conjunction with other entitlement programs, to reduce fraud and abuse through misuse of Medicaid identification cards.

Section 211. KRS 205.6324 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall by promulgation of administrative regulations enhance third-party resource collection capacity in Medicaid cases through utilization of in-house personnel and selective contracting for high-volume or high-technological services.

Section 212. KRS 205.6326 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review all medical assistance reimbursement systems for appropriateness and cost effectiveness. The review shall include:

(1) Review of cost-based reimbursement policies for hospitals and nursing homes to determine the effectiveness and appropriateness of alternate systems. Consideration shall be given to the use of modified diagnostic-related groups and resource utilization groups systems, using capitated payment methods; and

(2) Review of reimbursement rates for physicians to determine whether savings or cost containment would be better achieved through using a relative based resource value scale system, a capitated payment method, or other alternative methods of reimbursement; and

(3) For all Medicaid-covered long-term care services, implementation of a standardized patient assessment tool and consistent quality-of-care mandates.

Section 213. KRS 205.6334 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall request any waivers of federal law that are necessary to implement the provisions of KRS 205.6310 to 205.6332.

Section 214. KRS 205.6336 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for ***Health Services***[~~Human Resources~~], shall on a quarterly basis, certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from the procedures required by KRS 205.6310 to 205.6332 and any other procedures adopted by the Cabinet for ***Health Services***[~~Human Resources~~] or the Kentucky Health Policy Board to control the cost of health care.

(2) The certification shall indicate the following:

(a) The means by which savings were achieved, including a description of the discrete procedure used to achieve the savings; and

(b) The amount saved as a result of the specific procedure, including an explanation as to the calculations and assumptions used in determining the amount.

(3) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] to provide health care coverage for additional categories of citizens, but the funds in the trust account shall not be spent until appropriated by the General Assembly. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.

(4) Savings in the general fund appropriation for the Medicaid program shall be determined as follows:

(a) To the extent that the average cost per month per eligible actually experienced by the Medicaid program is less than the average cost per month per eligible reflected in the enacted budget, the savings attributable to that difference shall be deemed to be eligible for certification under this section.

(b) To the extent that the number of eligibles actually participating in the Medicaid program is less than the number reflected in the enacted budget, the savings attributable to that difference shall be deemed not eligible for certification under this section.

(5) Savings in the general fund appropriation to the Department ***for Mental Health and Mental Retardation Services***[~~of Mental Health~~] shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(6) Savings in the general fund appropriation to the Department for ***Public*** Health [~~Services~~]shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(7) Savings in the general fund appropriation to the Department of Social Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(8) Only those savings that can be certified as being recurring shall be transferred to the trust fund.

Section 215. KRS 205.6338 is amended to read as follows:

(1) Within one (1) year of obtaining necessary waivers from the Federal Health Care Financing Administration, the Secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall take all necessary steps to implement from one (1)

to three (3) pilot projects to provide health care services to frail elderly Medicaid-eligible individuals through fully integrated managed care systems for the elderly similar to the Program of All-Inclusive Care for the Elderly (PACE) program currently being replicated on a national basis with the approval of Congress.

(2) Within ninety (90) days of July 15, 1994, the Secretary of the Cabinet for Human Resources shall request the appropriate waivers from the Federal Health Care Financing Administration to implement a PACE program or a similar program in Kentucky.

Section 216. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of eighty-one million dollars ($81,000,000) for fiscal year 1995, and eighty-six million five hundred thousand dollars ($86,500,000) for fiscal year 1996 including provider tax revenues and federal matching funds, to the extent possible, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

(a) The sum of one million dollars ($1,000,000) in fiscal year 1995, and one and one-half million dollars ($1,500,000) in fiscal year 1996, taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~].

(b) The amount remaining in the MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] in accordance with this section.

(c) No individual hospital shall receive distributions from the MAIT fund that exceed indigent inpatient care provided by the hospital that meet the guidelines established in paragraphs (a) and (b) of this subsection and documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate.

(d) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital, and except nonemergency care rendered through a hospital emergency room, level to the Cabinet for ***Health Services***[~~Human Resources~~] on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.

2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the

Cabinet for ***Health Services***~~[Human Resources]~~, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the lesser of each hospital's individual per diem rate or the weighted median per diem for hospitals in each peer group, as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for ***Health Services***~~[Human Resources]~~, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(6) Except for nonemergency care rendered through a hospital emergency room, hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(7) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and 18A.2281;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

Section 217. KRS 205.645 is amended to read as follows:

Notwithstanding any provision of KRS 205.560, the Cabinet for ***Health Services***~~[Human Resources]~~ shall recognize the reasonable and appropriate varying overhead costs associated with different areas of specialty for the purposes of establishing the standard reimbursement rate for physician services, dental services, and services provided by other independent providers under the Kentucky Medical Assistance Program.

Section 218. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the Cabinet for ***Families and Children***~~[Human Resources]~~;

(2) "Secretary" shall mean the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay maintenance when included in the child support order or when assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever health care coverage is available at a reasonable cost;

(6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;

(7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from aid to families with dependent children, or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 219. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support Enforcement is established in the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) The duties of the division of child support, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 667;

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment of paternity form;

(e) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support; and

(f) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212.

(3) The cabinet shall establish a system to receive and process all child support payments. The system shall include compatible computer systems to record the payments. After the establishment of the compatible computer child support collection system, the cabinet or its designee, shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(4) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of

child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is cancelled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(5) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of whom services are sought.

Section 220. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. The lien shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.

(2) The cabinet shall file its claim of lien within three (3) years from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the Cabinet for ***Families and Children***[~~Human Resources~~], claims a lien in the amount of .... plus all unpaid child support hereafter accruing, including interest, until paid in full on the (describe property) of (name of obligor) for child support owed to obligor's dependent children or for such public assistance moneys as may have been paid to obligor's children by the Cabinet for ***Families and Children***[~~Human Resources~~]."

(3) The cabinet shall notify the obligor of the filing of its claim of lien.

Section 221. KRS 205.8451 is amended to read as follows:

As used in KRS 205.8451 to 205.8483, unless the context otherwise requires:

(1) "Benefit" means the receipt of money, goods, or anything of pecuniary value from the medical assistance program.

(2) "Fraud" means an intentional deception or misrepresentation made by a recipient or a provider with the knowledge that the deception could result in some unauthorized benefit to the recipient or provider or to some other person. It includes any act that constitutes fraud under applicable federal or state law.

(3) "Immediate family member" means a parent, grandparent, spouse, child, step-child, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, or grandchild.

(4) "Intentional" or "intentionally" means, with respect to a result or to conduct described by a statute defining an offense, that a person's conscious objective is to cause that result or to engage in that conduct.

(5) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware that his conduct is of that nature or that the circumstance exists.

(6) "Medical assistance program" means the program of medical assistance as administered by the Cabinet for ***Health Services***[~~Human Resources~~] in compliance with Title XIX of the Federal Social Security Act and any administrative regulations related thereto.

(7) "Provider" means an individual, company, corporation, association, facility, or institution which is providing or has been approved to provide medical services, goods, or assistance to recipients under the medical assistance program.

(8) "Provider abuse" means, with reference to a health care provider, practices that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary cost to the medical assistance program established pursuant to this chapter, or that result in reimbursement for services that are not medically necessary or that fail to meet professionally-recognized standards for health care. It also includes practices that result in unnecessary cost to the medical assistance program.

(9) "Recipient" means any person receiving or who has received medical assistance benefits.

(10) "Recipient abuse" means, with reference to a medical assistance recipient, practices that result in unnecessary cost to the medical assistance program or the obtaining of goods, equipment, medicines, or services that are not medically necessary, or that are excessive, or constitute flagrant overuse or misuse of medical assistance program benefits for which the recipient is covered.

(11) "Wantonly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is

unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

Section 222. KRS 205.8453 is amended to read as follows:

It shall be the responsibility of the Cabinet for ***Health Services***[~~Human Resources~~] and the Department for Medicaid Services to control recipient and provider fraud and abuse by:

(1) Informing recipients and providers as to the proper utilization of medical services and methods of cost containment;

(2) Establishing appropriate checks and audits within the Medicaid Management Information System to detect possible instances of fraud and abuse;

(3) Sharing information and reports with other departments within the Cabinet for ***Health Services***[~~Human Resources~~], the Office of the Attorney General, and any other agencies that are responsible for recipient or provider utilization review; and

(4) Instituting other measures necessary or useful in controlling fraud and abuse.

Section 223. KRS 205.8455 is amended to read as follows:

(1) To implement provisions of this section, the Commissioner of the Department for Medicaid Services shall create, no later than July 30, 1994, a Recipient Utilization Review Committee with the authority to:

  (a) Review individual recipient utilization or program benefits, recipient medical records, and other additional information or data necessary to make a decision;

  (b) Determine if a recipient has utilized the program or services in a fraudulent or abusive manner;

  (c) Refer cases of suspected recipient fraud to the Office of the Inspector General in the Cabinet for ***Health Services***[~~Human Resources~~];

  (d) Institute administrative actions to restrict or revoke the recipient's participation in the medical assistance program; and

  (e) Initiate actions to recover the value of benefits received by the recipient which were determined to be related to fraudulent or abusive activities.

(2) The Recipient Utilization Review Committee shall be composed of five (5) members as follows: one (1) licensed physician, one (1) representative from the same program benefit area that is the subject of the review, one (1) recipient or representative of medical assistance benefits, one (1) representative of the Surveillance and Utilization Review Subsystems Unit, as required under Title XIX of the Social Security Act, and the commissioner of the Department for ***Public*** Health[~~ Services~~], who shall serve by virtue of his or her office.

(3) A medical assistance recipient whose eligibility has been revoked due to defrauding the medical assistance program shall not be eligible for future medical assistance services for a period of not more than one (1) year or until full restitution has been made to the Department for Medicaid Services, whichever comes first.

(4) When a medical assistance recipient whose eligibility has been revoked due to defrauding of the medical assistance program reapplies for coverage, during the period of revocation, due to pregnancy, a communicable disease or other condition that creates a risk to public health, or a condition which if not treated could result in immediate grave bodily harm, the recipient utilization review committee for the Department for Medicaid Services may change the revoked status of the previously eligible recipient to restricted status if it has been determined that it would be in the best interest of the previously eligible medical assistance recipient to receive coverage for medical assistance services and the person is otherwise eligible. If this change in status is granted, the case shall be reconsidered by the recipient utilization review committee within sixty (60) days after the restricted status takes effect.

(5) Upon determination by the Recipient Utilization Review Committee of the Department for Medicaid Services that a medical assistance recipient has abused the benefits of the medical assistance program, the recipient shall immediately be assigned and restricted to a managed care primary physician designated by the Department for Medicaid Services. Except in the case of an emergency as defined by the recipient utilization review committee and set forth by the Cabinet for ***Health Services***[~~Human Resources~~] in an administrative regulation promulgated pursuant to KRS Chapter 13A, the restricted recipient shall be eligible to receive covered services only upon presenting to a participating provider, prior to the receipt of services, a dated written referral by the assigned managed care primary physician. Any participating provider who provides services to a medical assistance recipient in violation of the provisions of this subsection shall not be eligible for reimbursement for any services rendered.

(6) The Cabinet for ***Health Services***[~~Human Resources~~] shall request any waivers of federal law that are necessary to implement the provisions of this section.

(7) The provisions of paragraphs (d) and (e) of subsection (1) of this section and of subsections (3), (4), and (5) of this section shall have no force or effect until and unless the requested waivers are granted.

(8) Nothing in this section shall authorize the Cabinet for ***Health Services***[~~Human Resources~~] to waive the recipient's or provider's rights to prior notice and hearing as guaranteed by federal law.

(9) All complaints received by the Department for Medicaid Services, the Office of Inspector General, the Office of the Attorney General, or by personnel of the Cabinet for ***Health Services***[~~Human Resources~~] concerning possible fraud or abuse by a medical assistance recipient shall be forwarded immediately to the Recipient Utilization Review Committee for its consideration. Any cases of possible recipient fraud or abuse uncovered by personnel of the Cabinet for ***Health Services***[~~Human Resources~~] or by providers shall also be referred immediately to the Recipient Utilization Review Committee for its review. Records shall be kept of all cases, including records of disposition, considered by the Recipient Utilization Review Committee.

Section 224. KRS 205.8457 is amended to read as follows:

Any provider agreeing to participate as a managed care primary physician of the state's medical assistance program shall be responsible for prior approval of all medical-related services and goods, except transportation, of recipients assigned to the primary physician's care as set forth under administrative regulation promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] pursuant to KRS Chapter 13A. No primary physician may delegate that primary physician's authority to anyone except a provider designated by the managed care primary physician to temporarily be responsible for the primary physician's managed care patients during the primary physician's absence. The temporarily designated provider shall be approved by the Department for Medicaid Services. Procedures for delegation of authority to a temporarily designated provider shall be approved by the Department for Medicaid Services in accordance with any applicable federal laws or regulations.

Section 225. KRS 205.8463 is amended to read as follows:

(1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for ***Health Services***[~~Human Resources~~], or intentionally engage in conduct which advances the scheme or artifice.

(2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for ***Health Services***[~~Human Resources~~] any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.

(3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, home health agency, or other provider of services to the medical assistance program.

(4) No person shall, in any matter within the jurisdiction of the Cabinet for ***Health Services***[~~Human Resources~~] under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(5) Any person who violates subsections (1) and (2) of this section shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at three hundred dollars ($300) or more in which case it shall be a Class D felony. Any person who violates the provisions of subsection (3) of this section shall be guilty of a Class C felony. Any person who violates the provisions of subsection (4) of this section shall be guilty of a Class D felony.

Section 226. KRS 205.8465 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a violation of this chapter has been or is being committed by any person, corporation, or entity, shall report or cause to be reported to the state Medicaid Fraud Control Unit, or the Medicaid Fraud and Abuse hotline, the following information, if known:

(a) The name and address of the offender;

(b) The offender's place of employment;

(c) The nature and extent of the violation;

(d) The identity of the complainant; and

(e) Any other information that the receiving person reasonably believes might be helpful in investigation of the alleged fraud, abuse, or misappropriation.

The state Medicaid Fraud Control Unit shall periodically publicize the provisions of this subsection.

(2) The identity of any person making a report under this section shall be considered confidential by the receiving party. Any person making a report under this section regarding the offenses of another shall not be liable in any civil or criminal action based on the report if it was made in good faith.

(3) No employer shall, without just cause, discharge or in any manner discriminate or retaliate against any person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483, testifies, or is about to testify, in any

proceeding with regard to any report or investigation. Any individual injured by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained, together with the costs of the lawsuit, including a reasonable fee for the individual's attorney of record.

(4) No employee of the state Medicaid Fraud Control Unit, the Office of the Attorney General, the Office of the Inspector General, or the Cabinet for ***Health Services***[~~Human Resources~~] shall notify the alleged offender of the identity of the person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483 nor shall the employee notify the alleged offender that a report has been made alleging a violation of KRS 205.8451 to 205.8483 until such time as civil or criminal proceedings have been initiated or a formal investigation has been initiated. Any information or report concerning an alleged offender shall be considered confidential in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.

Section 227. KRS 205.8467 is amended to read as follows:

(1) Any provider who has been found by a preponderance of the evidence in an administrative process, in conformity with any applicable federal regulations and with due process protections, to have knowingly submitted or caused claims to be submitted for payment for furnishing treatment, services, or goods under a medical assistance program provided under this chapter, which payment the provider was not entitled to receive by reason of a violation of this chapter, shall:

(a) Be liable for restitution of any payments received in violation of this chapter, and interest at the maximum legal rate pursuant to KRS 360.010 in effect on the date any payment was made, for the period from the date payment was made to the date of repayment to the Commonwealth;

(b) Be liable for a civil payment in an amount up to three (3) times the amount of excess payments;

(c) Be liable for payment of a civil payment of five hundred dollars ($500) for each false or fraudulent claim submitted for providing treatment, services, or goods;

(d) Be liable for payment of legal fees and costs of investigation and enforcement of civil payments; and

(e) Be removed as a participating provider in the medical assistance program for two (2) months to six (6) months for a first offense, for six (6) months to one (1) year for a second offense, and for one (1) year to five (5) years for a third offense.

(2) Civil payments, interest, costs of investigation, and enforcement of the civil remedies recovered on behalf of the Commonwealth under this section shall be remitted to the State Treasurer for deposit in a Medicaid trust fund which is hereby created and shall not lapse. Funds deposited in the Medicaid trust fund shall not be spent until appropriated by the General Assembly for medical assistance services.

(3) The remedies under this section are separate from and cumulative to any other administrative, civil, or criminal remedies available under federal or state law or regulation.

(4) The Cabinet for ***Health Services***[~~Human Resources~~], in consultation with the Office of the Attorney General, may promulgate administrative regulations, pursuant to KRS Chapter 13A, for the administration of the civil payments contained in this section.

Section 228. KRS 205.8469 is amended to read as follows:

(1) The Attorney General, on behalf of the Commonwealth, may commence proceedings to enforce KRS 205.8451 to 205.8483, and to prosecute for all other criminal offenses that involve or are directly related to the use of any medical assistance program funds or services provided under this chapter.

(2) In enforcing KRS 205.8451 to 205.8483, the Attorney General may subpoena witnesses or documents to the grand jury, District Court, or Circuit Court of the county or counties where venue lies, and subpoena witnesses or documents to the Office of the Attorney General to secure testimony for use in civil or criminal trials, investigations, or hearings affecting the Cabinet for ***Health Services***[~~Human Resources~~].

Section 229. KRS 205.8471 is amended to read as follows:

(1) The Commonwealth shall have a lien against all property of any provider or recipient who is found to have defrauded the Medicaid program for an amount equal to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to 205.8483. The lien shall attach to all property and rights to property owned by the provider or recipient and all property subsequently acquired after a finding of fraud by the Cabinet for ***Health Services***[~~Human Resources~~].

(2) The lien imposed by subsection (1) of this section shall not be defeated by gift, devise, sale, alienation, or any other means, and shall include the sum defrauded and all interest, penalties, fees, or other expenses associated with collection of the debt. The lien shall have priority over any other lien or obligation against the property, except as provided in subsection (3) of this section.

(3) The lien imposed by subsection (1) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien which was filed prior to the date on which notice of the lien created by this section is filed by the secretary for ***health services***[~~human resources~~] or his designee with the county clerk of the county

or counties in which the provider's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice of lien shall be recorded in the same manner as the notice of lis pendens.

(4) The secretary for ***health services***[~~human resources~~] shall issue a partial release of any part of the property subject to lien upon payment by the debtor of that portion of the debt and any interest, penalty, or fees covered by the lien on that property.

(5) The secretary for ***health services***[~~human resources~~] may enforce the lien created pursuant to this section in the manner provided for the enforcement of statutory liens under KRS 376.110 to 376.130.

Section 230. KRS 205.8473 is amended to read as follows:

In a prosecution for any violation of the provisions of KRS 205.8451 to 205.8483, it shall be a defense if the person relied on the written advice of an employee or agent of the Cabinet for ***Health Services***[~~Human Resources~~], and the advice constitutes a defense under any of the provisions of KRS 501.070.

Section 231. KRS 205.8477 is amended to read as follows:

(1) Each health facility and health service as defined in KRS 216B.015 and each provider, participating in the medical assistance program shall, as a condition of participation in the medical assistance program, file annually with the Cabinet for ***Health Services***[~~Human Resources~~] the names and addresses of all persons having direct or indirect ownership or control interest, as defined in 42 C.F.R. 455.101, with five percent (5%) or more interest in the health facility, or health service or the business of the provider and those medical assistance program participating health facilities or health services with which the reporting provider, or health facility, or health service engages in a significant business transaction or a series of transactions that during any one (1) fiscal year, exceed the lesser of twenty-five thousand dollars ($25,000) or five percent (5%) of the total operating expenses of the provider, or health facility, or health service. The list of names and addresses shall be made available by the cabinet for public inspection during regular business hours and shall be updated annually.

(2) Each owner of or direct financial investor in any health facility or health service which dispenses or supplies drugs, medicines, medical devices, or durable medical equipment to a patient shall annually file with the Cabinet for ***Health Services***[~~Human Resources~~] the names and addresses of any immediate family member who is authorized under state law to prescribe drugs or medicines or medical devices or equipment.

Section 232. KRS 205.8481 is amended to read as follows:

No staff of the Office of the Attorney General shall, in private practice of law, serve as legal counsel to or represent any provider, as defined in KRS 205.8451. Designated staff of the Office of the Attorney General shall work in cooperation with the Cabinet for ***Health Services***[~~Human Resources~~] in any initiation of disciplinary proceedings against a health care provider as defined in KRS 205.8451 and as may be authorized or required under KRS 205.8451 to 205.8483 for violations of KRS 205.8451 to 205.8483.

Section 233. KRS 205.8483 is amended to read as follows:

(1) The Office of the Inspector General in the Cabinet for ***Health Services***[~~Human Resources~~] shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for the purpose of receiving reports of alleged fraud and abuse by medical assistance program recipients and participating providers.

(2) The Office of the Inspector General in the Cabinet for ***Health Services***[~~Human Resources~~] shall prepare a written description of the reported information and immediately make a written referral to:

  (a) The state Medicaid Fraud Control Unit and to the Office of the Attorney General of all reports of alleged fraud and abuse by providers or recipients participating in the medical assistance program; and

  (b) Other agencies and licensure boards of all reports relevant to their jurisdiction.

(3) The Office of the Inspector General in the Cabinet for ***Health Services***[~~Human Resources~~], jointly with the state Medicaid Fraud Control Unit and the Office of the Attorney General, shall prepare a Medicaid fraud and abuse report, for the prior fiscal year, categorized by types of fraud and abuse and by recipient and provider group. This report shall be submitted no later than July 1 of each year to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health and Welfare and shall identify:

  (a) The number and type of reports received in the Office of the Inspector General in the Cabinet for ***Health Services***[~~Human Resources~~], from the Medicaid fraud and abuse hotline categorized by recipient and provider groups;

  (b) The number and type of alleged Medicaid fraud and abuse reports which were discovered by, received by, or referred to the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Office of the Inspector General and the Department for Medicaid Services; the number and type of reports which were opened for investigation by the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Department for Medicaid Services, or the Office of the Inspector General and their disposition including:

    1. Administrative actions taken;

2. Criminal penalties and civil payments received;
3. The amount of state and federal funds involved in the alleged fraud and abuse;
4. The cost of administering the hotline; and
5. Recommendations for legislative action to prevent, detect, and prosecute medical assistance abuse and fraud in the Commonwealth.

Section 234. KRS 205.900 is amended to read as follows:

As used in KRS 205.905 to 205.920:

(1) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~.

(2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.

(3) "Personal care assistance services" means services which are required by an adult with a severe physical disability to achieve greater physical independence and which include, but are not limited to:

(a) Routine bodily functions, such as bowel or bladder care;
(b) Dressing;
(c) Housecleaning and laundry;
(d) Preparation and consumption of food;
(e) Moving in and out of bed;
(f) Routine bathing;
(g) Ambulation; and
(h) Any other similar activity of daily living.

(4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically disabled adults to enable them to live as independently as possible and a majority of whose governing board are consumers of these services. If no qualified agency or organization exists, an agency or organization may become a qualified provider when consumers of personal care assistance services are a majority of its advisory council.

(5) "Secretary" means the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~.

(6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent or temporary, recurring functional loss of two (2) or more limbs.

Section 235. KRS 205.935 is amended to read as follows:

As used in KRS 205.940:

(1) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~;

(2) "Representative payee" means a person appointed by the Social Security Administration, Veterans Administration, or other nonprofit social service agency to provide financial management services to persons receiving Social Security Administration, Veterans Administration, or other government benefits, who are incapable of making or executing responsible financial decisions.

Section 236. KRS 205.940 is amended to read as follows:

(1) A representative payee fund shall be created for the purpose of providing grants to public or private organizations who provide representative payee services. The fund shall consist of moneys appropriated by the General Assembly. These moneys may also be supplemented by funds obtained from other sources for the fund as provided in this section.

(2) The fund shall be administered by the Cabinet for ***Families and Children***~~[Human Resources]~~.

(3) Application for moneys from the fund may be made to the cabinet, on forms prescribed by administrative regulation. The awarding of grants shall be based upon the availability of funds. Grants shall be given to nonprofit organizations or agencies providing representative payee services to more than ten (10) persons who are mentally impaired, homeless or at risk of being homeless, or substance abusers in area development districts created pursuant to KRS 147A.050. The cabinet shall endeavor to fund an applicant where an eligible applicant exists. Health care facilities or other institutions, who serve as representative payees for persons residing therein, shall not be eligible to receive funds under this section.

(4) In determining the amount of each grant, the cabinet shall consider the number of persons receiving representative payee services from an applicant, the amount necessary to reimburse the applicant for all or a portion of the administrative costs incurred in providing representative payee services, and any fee charged by an applicant for the provision of representative payee services.

(5) The cabinet shall require applicants receiving funds pursuant to this section to be bonded, and to file an annual report with the cabinet providing an accounting of all funds expended on behalf of persons for whom representative payee services are provided. The cabinet shall promulgate administrative regulations providing for the termination of a grant if it determines a representative payee is not serving in the best interests of a client. If a grant is terminated, the cabinet

shall report the termination to the agency who appointed the representative payee and recommend the appointment of a new representative payee. If financial exploitation is indicated, the termination shall also be reported to the Department for Social Services for investigation pursuant to KRS Chapter 209.

(6) The cabinet may provide training for persons serving as representative payees and may provide technical assistance to applicants awarded a grant.

(7) The cabinet may apply for any grants that may be used to supplement the representative payee fund, and may accept gifts or donations to the fund.

Section 237. KRS 207.200 is amended to read as follows:

(1) The Kentucky Department of Workplace Standards is authorized to enforce the employment provisions of KRS 207.130 to 207.240 in conjunction with the State Attorney General's office and the state and local courts.

(2) Any individual with a disability requesting the intervention of the Kentucky Department of Workplace Standards under this section shall, within one hundred and eighty (180) days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the disability or disabilities which affect him. This statement may be used by the commissioner of workplace standards or his representative to determine if the individual does, or does not, have a "physical disability" as defined in KRS 207.130(2). If the commissioner of workplace standards or his representative determines that the aggrieved individual does have a disability which falls under the definition in KRS 207.130(2), the Department of Workplace Standards shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.

(3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the commissioner of workplace standards, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department of Workplace Standards to continue its involvement with the case, he shall be required to submit to the commissioner of workplace standards, within thirty (30) days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving individuals with disabilities:

(a) Specifying and describing the disability or disabilities affecting the individual; and

(b) Indicating any specific type of employment for which such disability should be considered a bona fide or necessary reason for limitation or exclusion.

(4) (a) The state agencies which may be consulted under subsection (3) of this section may include, but are not limited to, the following:

1. Department of Education, Office of Vocational Rehabilitation Services;

2. Cabinet for ***Health Services***[~~Human Resources~~], Department for ***Public*** Health[~~ Services~~];

3. Cabinet for ***Families and Children***[~~Human Resources~~], Division of Disability Determination.

(b) The commissioner of workplace standards, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;

(c) The agencies designated in this subsection, and any other state agency which serves individuals with disabilities and which the commissioner of workplace standards deems proper, shall cooperate to the fullest with the Department of Workplace Standards in issuing a statement of disability and limitations as specified in subsection (3) of this section within twenty (20) days of the date the individual with a disability presents himself before such agency for examination.

(5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace standards, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;

(b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;

(c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department of Workplace Standards an application for reconsideration of the determination. Upon such application, the commissioner of workplace standards or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;

(d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization, or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization, or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

Section 238. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~];

(2) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~];

(3) "Department" means the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~];

(4) "Adult" means a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse;

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another; and

(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county.

Section 239. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Revenue Cabinet. The Cabinet for ***Families and Children***[~~Human Resources~~] shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 240. KRS 209.420 is amended to read as follows:

(1) There is established within the Cabinet for ***Families and Children***[~~Human Resources~~] a statewide Senior and Physically Disabled Adult Discount Program for the purpose of making retail goods and services available at reduced rates to the Commonwealth's senior citizens.

(2) Program participation shall be voluntary and free. No fees, dues or other charges shall be assessed by the cabinet nor required of the merchants or senior or physically disabled adult citizens who choose to participate. The cabinet shall invite retail merchants to participate in the program by extending discounts on their merchandise or services to physically disabled adults and citizens sixty (60) years of age and older. The conditions and rate of the discounts shall be determined by the participating businesses. Persons sixty (60) years of age and physically disabled adults shall be eligible to participate in the program by presenting valid proof of age or a statement from a licensed physician that the

person is physically disabled to participating businesses.

(3) The secretary of the cabinet shall make such regulations as necessary to provide program identification for participating merchants and senior citizens lacking proof of age, informational brochures, directories of participating businesses, and other printed materials essential to the implementation and promotion of the program.

Section 241. KRS 209.500 is amended to read as follows:

The Kentucky Senior Games Program is hereby created within the Department for Social Services of the Cabinet for ***Families and Children***~~[Human Resources]~~. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.

Section 242. KRS 210.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

(4) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

(5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person cannot hear and understand speech clearly through the ear alone, irrespective of the use of any hearing aid device.

(6) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 243. KRS 210.010 is amended to read as follows:

The secretary for ***health services***~~[human resources]~~ shall have authority to prescribe rules and regulations for the administration of the cabinet and of the institutions under the control of the cabinet, including power to regulate the payment of money to patients in mental institutions for work performed.

Section 244. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;
2. The A.G. Bell Association;
3. The Kentucky School for the Deaf Alumni Association; and
4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

(b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for ***Health Services***~~[Human Resources]~~, Department for Mental Health and Mental Retardation Services;
2. The Workforce Development Cabinet, Department of Vocational Rehabilitation;
3. The Cabinet for ***Families and Children***~~[Human Resources]~~, Department for Social Services, Division for Aging Services;
4. The Education, Arts, and Humanities Cabinet, Commission on the Deaf and Hard of Hearing;
5. The Kentucky Registry of Interpreters for the Deaf; and
6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsections (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsections (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsections (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsections (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
2. Reports the number of deaf or hard-of-hearing persons served;
3. Identifies additional service needs for the deaf and hard-of-hearing; and
4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 245. KRS 210.040 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

(a) Identification of persons with chronic mental illness residing in the area to be served;

(b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class with any funds available to the cabinet;

(d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

(e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) Supervise private mental hospitals receiving patients committed by order of a court.

Section 246. KRS 210.042 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ may provide, to the extent funds are available under KRS 210.040 and under conditions and standards established by the cabinet, funds to any nonprofit agency recognized as operating in

the field of mental health and whose objectives are to carry out the purposes of KRS 210.040.

(2) The funds, if provided, may be matched on a fifty-fifty (50-50) basis by the nonprofit agency receiving such funds. The cabinet shall determine whether the match may be in money or in kind services or other match.

Section 247. KRS 210.045 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall:

(1) Maintain, operate, and assume program responsibility for all state institutions and facilities for mental retardation;

(2) Provide rehabilitation services for mentally-retarded persons through educational and training programs;

(3) Provide medical and allied services to mentally-retarded persons and their families;

(4) Encourage and assist communities to develop programs and facilities in the field of mental retardation;

(5) Sponsor or carry out research, or both, in the field of mental retardation; and

(6) Assist other governmental and private agencies in the development of programs and services for mentally-retarded persons and their families and for the prevention of mental retardation, and coordinate programs and services so developed.

Section 248. KRS 210.055 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ may:

(1) Promulgate reasonable rules and regulations for the purposes of carrying out the provisions of KRS 210.045, including regulations establishing the minimum and maximum ages within which mentally retarded persons are eligible:

   (a) To participate in programs operated by the cabinet;

   (b) To become patients in institutions operated by the cabinet;

(2) Participate in the education and training of professional and other persons in the field of mental retardation, and may encourage and assist private and public agencies and institutions to participate in similar education and training;

(3) Do all other things reasonably necessary to carry out the provisions of KRS 210.045.

Section 249. KRS 210.057 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall conduct research into all aspects of controlled substances as defined in KRS 218A.010 in coordination with the Kentucky Board of Pharmacy.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(3) The Cabinet for ***Health Services***~~[Human Resources]~~ may authorize the possession and distribution of controlled dangerous substances by persons engaged in research. Persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 250. KRS 210.080 is amended to read as follows:

The secretary for ***health services***~~[human resources]~~ may transfer any employee between the institutions operated by the cabinet, or to the headquarters of the cabinet. Necessary moving expenses involved in such transfers shall be paid by the cabinet.

Section 251. KRS 210.090 is amended to read as follows:

Neither the commissioner of the Department for Mental Health and Mental Retardation of the Cabinet for ***Health Services***~~[Human Resources]~~ nor his deputy nor any superintendent or director of an institution of the Department for Mental Health and Mental Retardation shall be permitted to engage in any partisan political activity.

Section 252. KRS 210.100 is amended to read as follows:

No officer or employee of any institution operated by the Cabinet for ***Health Services***~~[Human Resources]~~ shall be required to give personal attendance as a witness in any civil suit out of the county in which the institution is located, but his deposition shall be taken in lieu thereof.

Section 253. KRS 210.110 is amended to read as follows:

(1) No officer, employee***,*** or agent of the Cabinet for ***Health Services***~~[Human Resources]~~, a regional community mental health-mental retardation board or a nonprofit corporation administering a regional community mental health-mental retardation program shall sell anything to any institution, facility***,*** or organization under the control of the cabinet nor participate in selection, or in the award or administration of a contract supported by state or federal funds if a conflict of interest, real or apparent, would be involved.

(2) Such a conflict of interest would arise when:

(a) The employee, officer*,* or agent;

(b) Any member of his immediate family;

(c) His or her partner; or

(d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

Section 254. KRS 210.120 is amended to read as follows:

No physician or doctor employed by the Cabinet for ***Health Services***[~~Human Resources~~] shall receive or accept any compensation for personal services other than that paid by the state, except that the secretary, and other physicians and doctors when so authorized by the secretary, may be employed in, and receive compensation from outside activities such as teaching, research, or community service work, to an extent that will not interfere with the performance of the duties of their office or employment.

Section 255. KRS 210.130 is amended to read as follows:

Religious instruction and ministration for patients of the institutions operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be provided.

Section 256. KRS 210.170 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] may accept money from the federal government, or any of its agencies, under any grant agreement entered into by this state or by the cabinet. Such money may be expended for capital outlay in accordance with the provisions of KRS 56.440 to 56.550. The cabinet also may accept grants, gifts, bequests or devises from public or private sources, and use the same for any purpose within the scope of the functions of the cabinet, consistent with the terms of the grant, gift, bequest or devise.

Section 257. KRS 210.180 is amended to read as follows:

There shall be established and maintained, at each of the institutions operated by the Cabinet for ***Health Services***[~~Human Resources~~], a canteen which shall be incorporated and self-supporting. The directors of each canteen shall be appointed by the secretary. All profits from each canteen shall be used exclusively for the benefit of the patients of the institution.

Section 258. KRS 210.190 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may utilize the services of the workers of the other cabinets, when authorized by the agency heads of these cabinets. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may authorize payment of the actual traveling expenses of the workers so utilized.

Section 259. KRS 210.220 is amended to read as follows:

No patient of any of the institutions operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be denied the right to correspond with an attorney or with the secretary.

Section 260. KRS 210.230 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may prescribe appropriate records to be maintained covering the operations of the cabinet and of the institutions operated by it, and covering involuntary hospitalization procedures. Any record forms applicable to involuntary hospitalization procedures shall be furnished to each court having jurisdiction to order hospitalization of mentally ill or retarded persons, and the records contemplated by such forms shall thereafter be made by the hospitalizing courts.

Section 261. KRS 210.235 is amended to read as follows:

All applications and requests for admission and release, and all certifications, records, and reports of the Cabinet for ***Health Services***[~~Human Resources~~] which directly or indirectly identify a patient or former patient or a person whose hospitalization has been sought, shall be kept confidential and shall not be disclosed by any person, except insofar as:

(1) The person identified or his guardian, if any, shall consent; or

(2) Disclosure may be necessary to carry out the provisions of the Kentucky Revised Statutes, and the rules and regulations of cabinets and agencies of the Commonwealth of Kentucky; or

(3) Disclosure may be necessary to comply with the official inquiries of the departments and agencies of the United States government; or

(4) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and failure to make such disclosure would be contrary to the public interest. Nothing in this section shall preclude the disclosure, upon proper inquiry of the family or friends of a patient, of information as to the medical condition of the patient.

Section 262. KRS 210.240 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is authorized to establish training schools within the cabinet or within any of the institutions operated by the cabinet, for the training of necessary personnel for the institutions, or may arrange for the training of employees or prospective employees in any public or private school or institution having available facilities for that purpose. Funds of the cabinet may be used to pay salaries to employees, or to pay tuition and subsistence for employees or prospective employees, while receiving such training. Any employee or prospective employee who is paid a salary, or for whom tuition and subsistence are furnished, while receiving such training, shall be required to enter into a contract, prior to receiving such training, that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, he will reimburse to the cabinet the sum paid to or for him by the cabinet during the period of[~~ his~~] training.

Section 263. KRS 210.267 is amended to read as follows:

The residents of state mental hospitals may manufacture and produce for their own use, or for sale, such articles, furniture, clothing, tools, products, and other supplies and engage in such labor or work of construction as may be approved by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 264. KRS 210.270 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is authorized to designate those private homes, private nursing homes, and private institutions that he deems, after a thorough investigation of the personal and financial qualifications of the owners and tenants, the facilities and management, and the desirability of the location of the homes, suitable for the placement of patients, including individuals with mental illness or mental retardation of all ages, outside of the state mental hospitals. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may promulgate, by administrative regulation, standards for the selection and operation of private homes, private nursing homes, and private institutions designated for the placement of patients. No home of an officer or employee of the Cabinet for ***Health Services***[~~Human Resources~~] or of a member of his immediate family shall be designated for the placement of patients.

(2) Whenever the staff of a state mental hospital has determined that a patient who is not being held on an order arising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital shall so certify and authorize the patient to be transferred to a designated private home or private nursing home for care and custody for a length of time that the hospital deems advisable.

(3) No patient with mental retardation lodged in a state institution may have his level of care reclassified nor may he be transferred to a private nursing home or other private institution without first providing ten (10) days' notice by certified mail, return receipt requested, to the patient's parents or guardian that a reclassification of the patient's level of care or a transfer in the place of residence is being considered.

(4) Any parent or guardian of any patient with mental retardation lodged in a state institution may participate in any evaluation procedure which may result in a reclassification of the patient's level of care or in a transfer in the place of residence of the patient. Participation may include the submission by the parents or guardian of medical evidence or any other evidence deemed relevant by the parents or guardian to the possible reclassification or transfer of the patient.

(5) If the decision to reclassify or transfer any patient with mental retardation is adverse to the best interests of the patient as expressed by the parents or guardian, they shall be given notice by certified mail, return receipt requested, that they are entitled to a thirty (30) day period from the receipt of such notice to file with the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] a notice of appeal and application for a hearing. Upon receipt of an application for a hearing, a hearing shall be conducted in accordance with KRS Chapter 13B.

(6) The appeal shall be heard by a three (3) member panel composed of a designated representative of the Cabinet for ***Health Services***[~~Human Resources~~], a designated representative of the state institution where the patient with mental retardation is presently lodged, and a designated neutral representative appointed by the county judge/executive wherein the institution in question is located. The secretary may appoint a hearing officer to preside over the conduct of the hearing.

(7) Decisions made by the panel may be appealed to the Circuit Court of the county in which the state institution in question is located, to the Circuit Court of the county in which either of the parents or guardians or committee of the patient in question is domiciled at the time of the decision, or to Franklin Circuit Court in accordance with KRS Chapter 13B.

(8) All parents or guardians or committee of a patient with mental retardation lodged in a state institution shall be fully apprised by the Cabinet for ***Health Services***[~~Human Resources~~] of their rights and duties under the provisions of subsections (3), (4), (5), (6), and (7) of this section.

(9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to designated private homes and private nursing homes as though the patients were residing in a state mental hospital.

Section 265. KRS 210.271 is amended to read as follows:

(1) No patient in an institution for the mentally ill or the mentally retarded operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.

(2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are

discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for Social Services for appropriate placement. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Licensing and Regulation for investigation.

Section 266. KRS 210.285 is amended to read as follows:

In addition to the specific authority granted by other provisions of KRS Chapters 202A, 202B, and 210, the Cabinet for ***Health Services***~~[Human Resources]~~ shall have authority to prescribe the form of applications, records, reports, and medical certificates provided for under KRS Chapters 202A, 202B, and 210 and the information required to be contained therein; to require reports from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any patient; to visit hospitals regularly to review the hospitalization procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any persons on behalf of any patients or by any patients themselves; and to adopt such rules and regulations not inconsistent with the provisions of KRS Chapters 202A, 202B, and 210 as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

Section 267. KRS 210.290 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator as provided in this section. In this capacity the cabinet may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the cabinet.

(2) Whenever a resident of the state is adjudged partially disabled or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator, the cabinet, acting through its designated officer, may apply to the District Court of the county in which the adjudication is made for appointment as limited guardian, guardian, limited conservator, or conservator for such partially disabled or disabled person.

(3) Upon the death of a person for whom the cabinet has been appointed guardian or conservator, or upon the death of a person who has been committed to the cabinet leaving an estate and having no relatives at the time residing within the state, the cabinet may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The cabinet may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The cabinet shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs, and other expenses incurred in the administration of estates. Claims of the cabinet against the estates shall be considered in the same manner as any other claim.

(6) An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as guardian, limited guardian, conservator, or limited conservator.

(7) Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged disabled or partially disabled may authorize the Cabinet for ***Families and Children***~~[Human Resources]~~ to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (4) and (5) of this section.

Section 268. KRS 210.300 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall prescribe from time to time, by regulations, for the designation of hospital districts, for the purpose of determining to which of the state institutions for the mentally ill the persons admitted from each county shall initially be sent.

Section 269. KRS 210.360 is amended to read as follows:

(1) When a person who has been twice previously convicted of a felony is indicted by a grand jury as a persistent felony offender, the circuit clerk of the court in which he is indicted shall give notice of the indictment to the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ within seven (7) days after the indictment is returned by the grand jury. The secretary shall cause such person to be examined by a psychiatrist or licensed clinical psychologist already in the employ of the cabinet, to determine his mental condition and the existence of any mental illness or retardation which would affect his criminal responsibility. This examination shall be made without expense other than the amount to cover necessary travel, as provided by law for any other employee of the state traveling on official business.

(2) The psychiatrist or licensed clinical psychologist making the examination shall submit a written report of his findings to the judge of the court having jurisdiction, who shall make the report available to the prosecuting attorney and the attorney for the defendant.

(3) The secretary may decline to cause such examination to be made if the number of psychiatrists or licensed clinical psychologists on duty in the cabinet is insufficient to spare one from his regular official duties, in which event the secretary shall notify the clerk of the Circuit Court to that effect within three (3) days.

Section 270. KRS 210.370 is amended to read as follows:

Any combination of cities or counties of over 50,000 population, and upon the consent of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], any combination of cities or counties with less than 50,000 population, may establish a regional community mental health and mental retardation services program and staff same with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a community mental health-mental retardation board established pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.

Section 271. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 272. KRS 210.405 is amended to read as follows:

(1) Any regional community mental health-mental retardation board established pursuant to KRS 210.380 and recognized by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator, as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the board.

(2) Whenever a person who has been adjudged mentally disabled and requires mental health services has no guardian or conservator, the board, acting through its designated officer, may apply to the District Court of the county in which the adjudication was made for its appointment as guardian or conservator for such mentally-disabled person. The board may also apply to be substituted as guardian or conservator for a mentally-disabled person whose guardian or conservator is the Cabinet for ***Families and Children***[~~Human Resources~~] and who has been discharged or whose discharge is imminent from a Cabinet for ***Health Services***[~~Human Resources~~] facility.

(3) Upon the death of a person for whom the board has been appointed guardian or conservator leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 273. KRS 210.410 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is hereby authorized to make state grants and other fund allocations from the Cabinet for ***Health Services***[~~Human Resources~~] to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and mental retardation programs which shall provide at least the following services:

    (a) Inpatient services;

    (b) Outpatient services;

    (c) Partial hospitalization or psycho-social rehabilitation services;

    (d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d)***,*** and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e)***,*** and (f) shall be available to the mentally retarded. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

Section 274. KRS 210.420 is amended to read as follows:

(1) Except as hereinafter provided, grants from state general funds for any program shall not exceed fifty percent (50%) of the total expenditures for:

(a) Salaries;

(b) Contract facilities and services;

(c) Operation, maintenance, and service costs;

(d) Per diem and travel expenses for members of the community mental health-mental retardation boards***;***[~~.~~] and

(e) Other expenditures specifically approved by the secretary for ***health services***[~~human resources~~].

No grants from state general funds shall be made for capital expenditures. Grants from state general funds may be made for expenditures for mental health and mental retardation services whether provided by operation of a local facility or through contract with other public or private agencies.

(2) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall distribute to community mental health-mental retardation boards those general funds appropriated to the cabinet for the operation of regional community mental health-mental retardation programs. This distribution shall be by a formula which includes provisions for:

(a) Per capita allocations;

(b) Incentive allocations which require local matching funds based on the per capita wealth of the area served; and

(c) Discretionary allocations to be available to the secretary to maintain essential services pursuant to KRS 210.410.

The formula for allocation of community mental health-mental retardation program general funds shall be prescribed by administrative regulations.

Section 275. KRS 210.430 is amended to read as follows:

Any community mental health-mental retardation board or nonprofit corporation administering a mental health and mental retardation services program may apply for the assistance provided by KRS 210.370 to 210.460 by submitting annually to the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] its plan, budget, and membership of the board for the next fiscal year. No program shall be eligible for a state grant and other fund allocations from the Cabinet for ***Health Services***[~~Human Resources~~] hereunder unless its plan and budget have been approved by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], and no program shall be eligible for a state grant and other fund allocations from the Cabinet for ***Health Services***[~~Human Resources~~] hereunder unless the board composition is reasonably representative of those groups enumerated in KRS 210.380.

Section 276. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall allocate available funds to the mental health-mental retardation boards or nonprofit organizations for disbursement during the fiscal year in accordance with approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets, and expenditures of the various programs; and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw any funds that are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof, which is not being operated and administered in accordance with its approved plan and budget, and the policies and administrative regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480.

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and administrative regulations of the cabinet, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonprofit organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary

notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including, but not limited to, their financial record keeping, their personnel management operations, and their financial and program reporting; and

(b) Make personnel changes deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] thirty (30) days prior to the anticipated action by the secretary. The notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for the anticipated action. Following the notification, the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Request an administrative hearing before a hearing officer appointed by the secretary to show cause why the action should not stand. The application shall be made within seven (7) days of the receipt of the letter from the secretary, and the hearing shall be conducted in accordance with KRS Chapter 13B.

Section 277. KRS 210.450 is amended to read as follows:

In addition to the powers and duties already conferred upon him by the law, the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall:

(1) Promulgate policies and regulations governing eligibility of community mental health and mental retardation programs to receive state grants and other fund allocations from the Cabinet for ***Health Services***[~~Human Resources~~], prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment of fee schedules which shall be based upon ability to pay, regulating fees for diagnostic services, which services may be provided for anyone without regard to his financial status, when referred by the courts, schools, or health and welfare agencies whether public or private, governing financial record keeping, prescribing standards for personnel management operations, providing for financial and program reporting requirements, and such other policies and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health-mental retardation boards and program administrators;

(3) Provide consultative service, by mental health and mental retardation professionals qualified by education and training, to communities to assist in ascertaining local needs and in planning and establishing community mental health and mental retardation programs;

(4) Employ necessary and qualified personnel to implement KRS 210.370 to 210.460; and

(5) Review annually the community mental health-mental retardation boards' personnel policies, procedures and personnel compensation plans and disapprove if not consistent with accepted standards of personnel and salary administration prescribed by the cabinet.

Section 278. KRS 210.470 is amended to read as follows:

(1) It is the intent of this section to create a mental health and mental retardation taxing district by operation of law in each county coming under the provisions of KRS 210.370 to 210.460, in order to implement KRS 210.460.

(2) In all counties which have participated in the establishment of a regional community mental health and mental retardation services program under KRS 210.380, a mental health and mental retardation taxing district is hereby declared to be created.

(3) The members of the community mental health-mental retardation board recognized by the secretary for ***health services***[~~human resources~~] pursuant to KRS 210.380 shall, by virtue of their office, constitute and be the governing board of the mental health and mental retardation taxing district and shall perform the duties attendant thereto in addition to their duties as members of the community mental health-mental retardation board. Officers of the community mental health-mental retardation board shall be the officers of the mental health and mental retardation taxing district.

Section 279. KRS 210.480 is amended to read as follows:

(1) If, after the establishment of the mental health and mental retardation taxing district as provided for in this section, KRS 210.460, and KRS 210.470, the tax levying authorities in member areas of the district, in the opinion of the community mental health-mental retardation board, do not appropriate an amount sufficient to meet the needs of the mental health and mental retardation services program and clinic, as established pursuant to KRS 210.370, the community mental health-mental retardation board, acting as the governing body of the taxing district shall, with the approval of the Cabinet

for ***Health Services***~~[Human Resources]~~, request the fiscal courts in each of the member areas which have not contributed a sufficient proportionate share of the cost of the program, to impose a special ad valorem mental health and mental retardation tax in such amount that it deems sufficient, but not in excess of four cents ($0.04) per one hundred dollars ($100) of full assessed valuation. The fiscal court may, upon receipt of a duly certified copy of said request, include in the next ad valorem tax levy said special mental health and mental retardation tax imposed by the mental health-mental retardation board which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special mental health and mental retardation tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the community mental health-mental retardation board to be used for the maintenance and operation of the mental health and mental retardation services program and clinic as provided in KRS 210.460. No appropriation for a mental health and mental retardation services program and clinic established under KRS 210.370 shall be reduced or eliminated on the grounds that a special tax has been levied where the community mental health-mental retardation board requested the amount levied as a necessary supplement to that appropriation. Taxing districts organized pursuant to KRS 210.470 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Acts 1965 (1st Ex. Sess.), ch. 2.

(2) Nothing contained ***in this section***~~[herein]~~ shall be construed as precluding any city or county from appropriating or allocating funds in any other manner for the support of the regional mental health and mental retardation services program and clinic, pursuant to KRS 210.460, or any other statutory provision.

Section 280. KRS 210.710 is amended to read as follows:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) "Facility" means a hospital or other institution operated or utilized by the cabinet for the mentally ill, mentally retarded or respiratory disease patients.

(3) "Homestead" means a place where a family makes its home including the land, house and furnishings, outbuildings, vehicles and tools of the trade formerly occupied by the patient which is exempted by KRS 210.710 to 210.760 from liability to meet patient charges for services rendered in a facility.

(4) "Means test" means a uniform method adopted by the secretary for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the cabinet.

(5) "Person responsible for the patient" includes parents, spouses, guardians and committees within the scope of their fiduciary duties.

(6) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 281. KRS 211.015 is amended to read as follows:

(1) As used in KRS 211.005 to 211.380, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(b) "Farmstead" means a farm dwelling, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land outside the corporate limits of a municipality:

1. Used for the production of livestock, livestock products, poultry, poultry products, dairy, dairy products, or horticulture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, and wheat; or

2. Where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;

(c) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~; and

(d) "Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.

(2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:

(a) "Department" means Department for ***Public*** Health~~[Services]~~;

(b) "Commissioner" means the commissioner of the Department for ***Public*** Health ~~[Services]~~;

(c) "Committee" means the Hemophilia Advisory Committee; and

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

Section 282. KRS 211.027 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate reasonable rules and regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS 311.710 to 311.810, which shall be submitted to the Legislative Research Commission in a manner prescribed in KRS Chapter 13A; the Legislative Research Commission shall refer said rules and regulations to the

Interim Committee on Health and Welfare for the purpose of approval or disapproval.

Section 283. KRS 211.130 is amended to read as follows:

As used in KRS 211.130 to 211.160, unless the context requires otherwise:

(1) "Cabinet" shall mean the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) "Secretary" shall mean the secretary for ***health services***~~[human resources]~~;

(3) "An individual with a severe physical disability" shall mean a person who has a severe physical disability as a result of cerebral palsy, poliomyelitis, muscular dystrophy, or spina bifida;

(4) "Educable person" shall mean an individual with a severe physical disability, as defined above, who is determined by the cabinet to be capable of receiving and benefiting from the services and facilities provided by KRS 211.130 to 211.160;

(5) "Funds" shall mean all moneys received by the cabinet from all persons, corporations, associations, organizations, and state or federal government agencies, specifically designated to be used for furnishing facilities and services for educable persons; provided, however, that no moneys appropriated to the cabinet by the General Assembly of this Commonwealth shall be considered to have been appropriated for establishing, providing or maintaining services or facilities for educable persons, unless the act appropriating such moneys expressly so provides.

Section 284. KRS 211.160 is amended to read as follows:

(1) The secretary for ***health services***~~[human resources]~~ may, from the funds available, employ, by contract or otherwise such medical, clinical, technical, and other personnel that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160, and fix and pay their compensation and necessary traveling expenses.

(2) The secretary for ***health services***~~[human resources]~~ may, from the funds available, procure, by purchase or lease or otherwise, such property, equipment, services, facilities, and supplies that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160.

(3) The secretary for ***health services***~~[human resources]~~ is authorized to accept, on behalf of the Commonwealth of Kentucky, all gifts, donations, contributions, grants, devises, bequests, and conveyances of real and personal property for establishing, providing, and maintaining the services and facilities described in KRS 211.150, subject only to the condition that same shall be devoted to and used for said purposes. All funds received by the secretary for ***health services***~~[human resources]~~ shall be deposited in the State Treasury and credited to a trust and agency fund account and expended only for purposes authorized by KRS 211.130 to 211.160.

(4) The secretary for ***health services***~~[human resources]~~ may make and issue all necessary rules and regulations to carry out KRS 211.130 to 211.160; provided, however, that no educable person shall be eligible for any benefits hereunder unless he is, and has been continuously for at least twelve (12) months immediately preceding the date of his application therefor, an actual resident of this state.

(5) The secretary for ***health services***~~[human resources]~~ may delegate to any division of the cabinet, or to any director thereof, any and all of his authority and duties hereunder.

(6) Upon request of the secretary for ***health services***~~[human resources]~~, approved in writing by the Governor, any cabinet, agency, or commission of the Commonwealth shall furnish without cost to the cabinet such services, facilities, and assistance as are available and, in the judgment of the secretary for ***health services***~~[human resources]~~ and the Governor, required, to effectuate the purposes of KRS 211.130 to 211.160 or its administration which is hereby vested in the cabinet.

Section 285. KRS 211.165 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a loan repayment program to repay educational loans for primary health care professionals who agree to serve in federally-designated health professional shortage areas. The program shall:

(1) Apply for federal funds for the program under the Public Health Service Act (42 U.S.C. sec. 254g-1);

(2) Make payments of qualifying educational loans of health professionals agreeing to provide primary health services in federally-designated health professional shortage areas;

(3) Assign health professionals only to public and private nonprofit entities;

(4) Enter into contracts with participants with remedies for breach of contract by the health professional; and

(5) Make available nonfederal contributions towards contracts with individual health professionals in an amount not less than one dollar ($1) for each one dollar ($1) of federal funds provided. In meeting this matching fund requirement, the state shall provide fifty percent (50%) of the state's share from state funds, and the remaining fifty percent (50%) shall be provided from local governments or other community-based resources from the area in which the health professional will be serving.

Section 286. KRS 211.1751 is amended to read as follows:

As used in KRS 211.1751 to 211.1755:

(1) "Agency" means a local health department established pursuant to the provisions of KRS Chapter 212, excluding a health department in a county containing a city of the first-class, an urban-county health department, or an independent district health department.

(2) "Classification plan" means the system of classes and job descriptions, and the process for the installation and maintenance of the classification plan.

(3) "Compensation plan" means a series of salary ranges to which classes of positions are assigned so that classifications evaluated as approximately equal may be assigned to the same salary range.

(4) "Council" means the Local Health Department Employment Personnel Council created in KRS 211.1752.

(5) "Department" means the Department for ***Public*** Health[~~ Services~~] within the Cabinet for ***Health Services***[~~Human Resources~~].

Section 287. KRS 211.1752 is amended to read as follows:

(1) The Local Health Department Employment Personnel Council is hereby created. The council shall be composed of five (5) members appointed by the secretary for ***health services***[~~human resources~~].

(2) Members of the council shall serve for a term of three (3) years or until successors are appointed, except that for members of the initially appointed council, two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and one (1) member shall be appointed for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term.

(3) The council shall elect a chairperson from its membership. Regular meetings of the council shall be held at least semiannually. Special meetings of the council may be held upon call of the chairperson or the department.

(4) The council shall be attached to the department for administrative purposes.

(5) The council shall:

(a) Advise the cabinet on administration of the local health department personnel program pursuant to KRS Chapter 212;

(b) Hear appeals from:

1. Applicants for positions for which examinations are being or have been conducted;

2. Eligible applicants on examination registers; and

3. Classified employees who have been dismissed, demoted, or suspended for cause;

(c) Hear appeals regarding discrimination in a personnel action involving an agency employee or an applicant for employment;

(d) Make an annual report to the department and agency; ***and***

(e) Consider and act upon matters that may be referred to the council by the department.

Section 288. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:

(a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control of the United States Public Health Service. The cabinet shall require reporting of cases of human immunodeficiency virus infection by July 1, 1990, but shall be prohibited from requiring the reporting of or collection of names and addresses. However, a code may be used, so long as in and of itself, it would not identify the patient. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient.

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;

(f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; ***and***

(g) Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. sec. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

Section 289. KRS 211.184 is amended to read as follows:

(1) It shall be the duty of the cabinet to enforce the provisions of KRS 211.182, and for that purpose the investigators, inspectors, representatives, and agents of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and the cabinet shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence.

(2) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may institute, in his own name, proceedings to enjoin and restrain violations of KRS 211.182, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 290. KRS 211.190 is amended to read as follows:

The cabinet shall provide public health services including:

(1) Administrative, consultative, technical, professional, and other services needed to assist local health departments in the effective maintenance and operation of their departments;

(2) Administrative, investigative, and clerical services required by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], and may upon request provide these services to any other agency of this Commonwealth authorized to control the practice of any other healing art;

(3) Administration of grants, gifts, or contributions from the federal government, or from other sources, for the purpose of carrying out the provisions of Public Law No. 725 (79th Congress, 2nd Session, chapter 958), or any other acts for the same or similar purposes;

(4) Central registrations of births, deaths, and other vital records and the furnishing of copies thereof to the general public in the manner prescribed by law;

(5) Statistical services, including the compilation, analysis, and maintenance of statistics on matters related to public health, and may provide these services to organizations and persons interested in public health;

(6) Education of the public concerning all matters relating to health, including the publication and dissemination of health information, and the stimulation of citizen support for the promotion and maintenance of high standards of public health throughout the Commonwealth;

(7) Survey and study of the needs of medical and hospital facilities in the interest of the health of the general public;

(8) Establishment, maintenance, and operation of public health laboratories and such branches thereof as may be needed;

(9) Establishment, maintenance, and operation of training facilities and schools for employees of the cabinet and of local health departments;

(10) Tabulating, duplicating, and other ancillary services as are necessary to the operation of the cabinet, including the keeping of adequate financial, personnel and other records; and

(11) Establishment, maintenance, monitoring, and enforcement of water fluoridation programs for the protection of dental health.

Section 291. KRS 211.200 is amended to read as follows:

Whenever, in the opinion of the secretary for ***health services***[~~human resources~~], a public health emergency exists in any county, or whenever any county fails to establish, maintain, and operate a local health department therein meeting the standards prescribed by the cabinet, the cabinet may assign to said county such of its own personnel as may be designated by the secretary for human resources. Such personnel so assigned shall have the full power and authority of local health department employees in addition to their power and authority as representatives of the cabinet. Whenever such assignment results by reason of the lack of a local health department or of a local health department meeting the standards prescribed by the cabinet, any funds appropriated or allocated to the local health department by either the Commonwealth or the federal government may be used to reimburse the cabinet.

Section 292. KRS 211.215 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall operate a program for the decontamination of bird roosts.

(2) Prior to the decontamination of a bird roost, the cabinet shall, at a minimum, make the following determinations:

(a) The bird roost has tested positive to the presence of histoplasma capsulatum;

(b) The bird roost presents a potential health hazard;

(c) The landowner has requested in writing to the cabinet that the cabinet have the land area associated with the bird roost decontaminated; and

(d) That there are sufficient state funds to pay for the decontamination of the area, including any assistance which may be given by local governmental units, volunteer fire departments, or other organizations.

(3) If one (1) or more of the determinations made by the cabinet in subsection (2) of this section is made in the negative, the bird roost shall not be decontaminated by the cabinet.

(4) The cabinet shall ensure that the decontamination of a bird roost is conducted in a safe manner.

(5) The cabinet may secure the services of local governmental units, volunteer fire departments, or other organizations as long as they are qualified to conduct the decontamination in a safe manner.

(6) The cabinet may issue administrative regulations to implement this section.

Section 293. KRS 211.220 is amended to read as follows:

For the purposes of enforcing the public health laws of the Commonwealth, investigators, inspectors, officers, representatives, and agents of the cabinet may enter upon any premises when necessary for the purpose of making inspections and investigations, and may view evidence and interrogate persons, to the extent required in the performance of their duties and responsibilities. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the cabinet, and such process shall extend to all parts of the Commonwealth. Service of process may be made by certified mail, return receipt requested or in the manner prescribed by the Rules of Civil Procedure. Nothing in this section shall be construed to authorize the cabinet to regulate the practice of any healing art where the licensure regulation and control of same has been conferred by statute upon some other agency of the state.

Section 294. KRS 211.230 is amended to read as follows:

In case of a failure on the part of any person, firm, or corporation to comply with any lawful order of the Cabinet for ***Health Services***[~~Human Resources~~], or with process or in case of the refusal of any witness to testify concerning any matter on which he may be lawfully interrogated, the Circuit Court, or a judge thereof, having jurisdiction may, on application of the Cabinet for ***Health Services***[~~Human Resources~~] or the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], compel obedience by proceedings as in contempt cases.

Section 295. KRS 211.345 is amended to read as follows:

The Department for ***Public*** Health[~~ Services~~] in the Cabinet for ***Health Services***[~~Human Resources~~] shall establish a program for testing, upon request of the owner or user of the water supply, private water supplies for bacterial and chemical contamination, and for educating the public about proper siting and drilling of wells and treatment of wells and other private water supplies. The program shall consist of the following elements:

(1) The development of policies, in conjunction with the Natural Resources and Environmental Protection Cabinet, for testing private water supplies and using relevant information in a groundwater database;

(2) The development of a data collection system, in conjunction with the Natural Resources and Environmental Protection Cabinet, which shall contain the results of water sample tests and information on well location sufficient to locate the

wells on an official map;

(3) The development of a private water supply user's manual to be made available to the public; and

(4) The development of a technical assistance program for private water supply users.

Section 296. KRS 211.355 is amended to read as follows:

(1) Any local board of health authorized to serve as agent of the Cabinet for ***Health Services***~~[Human Resources]~~ for the issuance of permits for on-site sewage disposal systems may set a schedule of fees reasonably related to the cost of administering programs including:

  (a) Inspections incidental to construction, installation, and alteration of on-site sewage disposal systems; and

  (b) Inspections incidental to maintenance and operation of on-site sewage disposal systems.

(2) Such fees shall be designed to fully cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of said program.

(3) Nothing in this section shall authorize or allow the cabinet to inspect any on-site sewage disposal system constructed prior to July 15, 1986, unless such inspection is deemed necessary due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint.

Section 297. KRS 211.357 is amended to read as follows:

(1) The cabinet shall establish a program to certify persons as installers of on-site sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318 or a person who provides written verification from the local health department in the county in which the work was completed that he installed five (5) lateral fields and septic tank systems prior to July 13, 1984, and that these installations had been inspected by a certified inspector and passed inspection, shall be certified automatically.

(2) The cabinet shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall automatically be converted to a full certification at the time that the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed the inspection. The cabinet shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of verification. In order to be issued a probationary certification, eligible persons shall certify in writing that they will make installations in accordance with requirements set forth by the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) Persons certified as installers, except master plumbers licensed pursuant to KRS Chapter 318, shall pay a reasonable fee of not more than twenty-five dollars ($25) for certification.

(4) The cabinet may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:

  (a) Knowingly violated the provisions of this chapter or the regulations of the cabinet;

  (b) Practiced fraud or deception in applying for or obtaining a certificate;

  (c) Is incompetent to install on-site sewage disposal systems;

  (d) Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or

  (e) Is guilty of other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

(5) Upon appeal of any decision to revoke or suspend a certification, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for these systems established by the cabinet.

Section 298. KRS 211.365 is amended to read as follows:

In order to provide for the issuance of plumbing installation permits pursuant to KRS Chapter 318 and on-site sewage disposal permits pursuant to this chapter in a manner convenient to the public, the Cabinet for ***Health Services***~~[Human Resources]~~ shall provide office space in the local departments of health for the district plumbing inspector without fee or charge to the Department of Housing, Buildings and Construction.

Section 299. KRS 211.370 is amended to read as follows:

The commissioner of the Department for ***Public*** Health~~[Services]~~ shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the regulations established by the cabinet relating to on-site sewage disposal systems. The local board of health shall include in the written request a procedure for administering this section. The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class and in urban counties, the local board of health may adopt regulations relating to the proper construction, installation and alteration of on-site sewage disposal systems which are more stringent than the regulations adopted by the cabinet.

Section 300. KRS 211.420 is amended to read as follows:

(1) There is hereby established within the Cabinet for ***Health Services***~~[Human Resources]~~, a rural Kentucky dental scholarship fund.

(2) There shall be available each fiscal year to applicants selected by the board with the approval of the Dental Health Program of the Cabinet for ***Health Services***~~[Human Resources]~~, no less than ten (10) scholarships for the study of dentistry leading to the attainment of the degree of Doctor of Dental Surgery, or some equivalent degree.

(3) The amount of each scholarship shall be a reasonable sum determined by the board, but shall not be less than one thousand five hundred dollars ($1,500) per annum.

(4) In granting scholarships the board shall make a careful and full investigation of the ability, character and qualifications of each applicant, and may personally examine each applicant. The board shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship.

Section 301. KRS 211.430 is amended to read as follows:

(1) To be eligible for a scholarship made available under KRS 211.405 to 211.460, an applicant must:

(a) Have been a resident of this Commonwealth for not less than five (5) years immediately preceding the date of application;

(b) Be acceptable for enrollment in a dental school accredited by the Council on Dental Education of the American Dental Association, and approved by the board; and

(c) Furnish satisfactory evidence to the board that he does not have sufficient financial resources to enable him to study dentistry without assistance.

(2) Before a scholarship is granted, the applicant shall contract in writing with the board, that he will, within six (6) months from the date he completes his term of study, engage in the practice of dentistry in a locality or localities within this Commonwealth to be designated by the Dental Health Program of the Cabinet for ***Health Services***~~[Human Resources]~~, at the rate of one (1) year for each annual scholarship received, or proportional time for partial scholarships.

Section 302. KRS 211.461 is amended to read as follows:

As used in KRS 211.461 to 211.466, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) "Private review agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any person providing or administering health benefits to citizens of this Commonwealth;

(3) "Registration" means an authorization issued by the cabinet to a private review agent to conduct utilization review;

(4) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or his designee;

(5) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a patient or group of patients for purposes of determining the availability of payment; and

(6) "Utilization review plan" means a description of the procedures governing utilization review activities performed by a private review agent.

Section 303. KRS 211.464 is amended to read as follows:

(1) Within ninety (90) days of July 13, 1990, the cabinet shall promulgate administrative regulations to implement the provisions of this chapter including the following:

(a) The establishment of fees for applications and renewals in an amount sufficient to pay for the administrative costs of the program and any other costs associated with carrying out the provisions of KRS 211.461 to 211.466 not to exceed five hundred dollars ($500).

(b) Specification of information required of applicants for registrations and renewals, which shall include, at a minimum:

1. A utilization review plan that includes:

a. Utilization review policies and procedures to be used in evaluating proposed or delivered hospital care;

b. Those instances, if any, under which utilization review may be delegated to a hospital utilization review program;

c. The procedures by which patients, physicians, or hospitals may seek timely reconsideration or appeal of adverse decisions by the private review agent;

d. The manner in which the private review agent shall notify the patient, hospital, and physician when payment for hospital or medical care is denied including the reasons for the denial;

2. The type and qualifications of the personnel either employed or under contract to perform utilization review;

3. Assurances that a toll-free line will be provided for patients, hospitals, and physicians to contact the private review agent and policies and procedures to insure that a representative of the private review agent shall be reasonably accessible to patients and providers at least forty (40) hours per week during normal business hours;

4. The policies and procedures to insure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

5. A copy of the materials designed to inform applicable patients and providers of the requirements of the utilization review plan;

6. A list of the third-party payors for which the private review agent is performing utilization review in this state; and

7. Evidence of compliance or ability to comply with the requirements of KRS 211.461 to 211.466 and the regulations;

(c) A process for the review of applications for registrations and renewals, including application procedures, procedures for supplementing the application on the request of the secretary, reasonable timetables for review and decision, and notice procedures;

(d) A process for the revocation of registration, which shall include notice provisions, and reasonable timetables for decision on a revocation;

(e) A process for the appeal of a denial of a registration or renewal or of a revocation of a registration, which shall include the right to an administrative hearing conducted in accordance with KRS Chapter 13B;

(f) A process for reviewing any written complaints that a private review agent has failed to perform review in accordance with the utilization review plan submitted pursuant to KRS 211.461 to 211.466 or to comply with any requirements of KRS 211.461 to 211.466 or regulations promulgated thereunder which shall require the secretary to:

1. Within ten (10) days of the receipt, send a copy of the complaint to the private review agent and require that any written reply be sent to the secretary within ten (10) days;

2. Upon review of a complaint, make a recommendation to the insurer or private review agent and the insured; and

3. Consider complaints before issuing or renewing any registration to a private review agent; and

(g) The establishment of an appeal process to resolve disputes between private review agents and health care providers and patients.

(2) The cabinet may establish reporting requirements to:

(a) Evaluate the effectiveness of private review agents; and

(b) Determine if the utilization review programs are in compliance with the provisions of KRS 211.461 to 211.466 and applicable regulations.

(3) On request of any health facility, physician, or patient whose care is subject to review, the cabinet shall provide copies of policies or procedures of any private review agent which has been issued a registration to conduct review in this state.

(4) The cabinet shall, on a bimonthly basis, compile a list of registered private review agents along with the renewal dates of their registrations and the date upon which any private review agents submitted changes to their policies or procedures. This information shall be made available upon request.

(5) The Cabinet for ***Health Services***[~~Human Resources~~] shall report to the General Assembly by July 1, 1991, and each year thereafter on the number of private review agents conducting utilization review, the type of criteria used to perform utilization review, and the feasibility of adopting uniform standards for one (1) or more aspects of utilization review including standardized forms for data collection and the medical procedures for which preauthorization and second surgical opinion would be required.

Section 304. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal

cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 1995;

(b) Two (2) on June 30, 1996;

(c) Two (2) on June 30, 1997; and

(d) One (1) on June 30, 1998.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for ***Health Services***~~[Human Resources]~~ for administrative purposes.

Section 305. KRS 211.640 is amended to read as follows:

The duties of the Cabinet for ***Health Services***~~[Human Resources]~~ shall be to:

(1) Promote and develop effective programs of education, health, recreation, welfare, public safety and correctional services for children and youth;

(2) Conduct continuing programs of public information to educate the public as to problems of children and youth;

(3) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of children and youth;

(4) Cooperate with the federal government and with the governments of other states and cities in programs relating to children and youth;

(5) Conduct programs of research as to the needs of children and youth in order to facilitate more comprehensive and better related social planning and action.

Section 306. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and 213.046, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) "Certificate" means the certificate of birth required by KRS 213.046;

(3) "Commission" means the Commission for Children with Special Health Care Needs;

(4) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(5) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss;

(6) "High risk infant" means a child at birth who is at a higher risk than normal of being hard of hearing due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose, or throat anomalies;

(d) Below normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea; and

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration.

Section 307. KRS 211.647 is amended to read as follows:

(1) The commission on receipt of the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family.

(2) The commission's process for identifying high risk infants shall include a timely review of all hearing risk certificates to identify the presence of factors determined to occur frequently with hearing loss in newborn infants. The commission shall secure information missing from certificates which is relevant to identifying high risk infants.

(3) The commission shall involve agencies and organizations which provide services to deaf and hard of hearing children, including, but not limited to, the Department of Education, the Cabinet for ***Health Services***[~~Human Resources~~], and the Commission on the Deaf and Hard of Hearing, in planning for and implementation of this section. Cumulative demographic data of identified high risk infants shall be made available to agencies and organizations requesting the information for planning purposes.

Section 308. KRS 211.651 is amended to read as follows:

As used in KRS 211.651 to 211.670, unless the context otherwise requires:

(1) "Cabinet" ***means***[~~shall mean~~] the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Secretary" ***means***[~~shall mean~~] the secretary of the Cabinet for ***Health Services***[~~Human Resources~~];

(3) "Department" ***means***[~~shall mean~~] the Department for ***Public*** Health[~~ Services~~]; ***and***

(4) "Designee" ***means***[~~shall mean~~] a local health department, mental health/mental retardation board, or other governmental or private agency designated by the Department for ***Public*** Health[~~ Services~~].

Section 309. KRS 211.660 is amended to read as follows:

(1) The Department for ***Public*** Health[~~ Services~~] shall establish and maintain a Kentucky birth surveillance registry that will provide a system for the collection of information concerning birth defects, stillbirths, and high risk conditions. The system may cover all or part of the Commonwealth.

(2) In establishing the system, the department may review vital statistics records, and shall also consider expanding the current list of congenital anomalies and high risk conditions as reported on birth certificates.

(3) The department may require general acute care hospitals licensed under the provisions of KRS Chapter 216B to maintain a list of the following information: All inpatients up to the age of five (5) years with a primary diagnosis of a congenital anomaly or high risk condition as defined by the department upon the recommendation of the appointed advisory committee.

(4) With the written consent of one (1) parent or guardian, the department may have access to the medical records of any patient meeting the criteria in subsection (3) of this section that are maintained by general acute care hospitals and freestanding birthing centers licensed under the provisions of KRS Chapter 216B.

(5) The Department for ***Public*** Health[~~ Services~~] may implement the provisions of KRS 211.651 to 211.670 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 310. KRS 211.684 is amended to read as follows:

(1) For the purposes of KRS Chapter 211:

(a) "Child fatality" means the death of a person under the age of eighteen (18) years; and

(b) "Local child fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child deaths, including but not limited to, coroners, family service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys.

(2) The Department for ***Public*** Health~~[Services]~~ may establish a state child fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health care providers, and other agencies or professions deemed appropriate by the commissioner of the department.

(3) If a state team is created, the duties of the state team may include the following:

(a) Develop and distribute a model protocol for local child fatality response teams for the investigation of child fatalities;

(b) Facilitate the development of local child fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;

(c) Review and approve local protocols prepared and submitted by local teams;

(d) Receive data and information on child fatalities and analyze the information to identify trends, patterns, and risk factors;

(e) Evaluate the effectiveness of prevention and intervention strategies adopted; and

(f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child fatalities.

(4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the Legislative Research Commission, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis of the incidence and causes of child fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child fatality cases.

Section 311. KRS 211.760 is amended to read as follows:

(1) No person shall engage in, offer to engage in, or carry on any business of tattooing of humans by nonmedical personnel for remuneration within the Commonwealth of Kentucky without first registering with the local health department in the district or county in which the person is to perform tattooing. Registrations shall be valid for one (1) year. Applicants for registration shall pay a fee of twenty dollars ($20) to the local or district health department.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations relating to:

(a) Health and cleanliness of places of business in which tattooing is conducted;

(b) Sterilization of tattooing apparatus;

(c) Procedures to prevent the spread of disease or infection during or relating to tattooing procedures;

(d) Procedures to prevent the tattooing of minors without the consent of one (1) parent or guardian; ***and***

(e) Such other administrative regulations as may be necessary to protect public health or properly administer the program requirements of this section.

(3) Representatives of the cabinet or local or district health departments may visit tattooing facilities at any time during business hours to ensure compliance with the requirements of this section. Representatives of local or district health departments shall visit each registered tattooing facility in their county or district not less than twice each year.

(4) The provisions of this section shall not apply to a person who engages in the application of permanent make-up.

(5) Any administrative hearing conducted under this section shall be conducted in accordance with KRS Chapter 13B.

Section 312. KRS 211.820 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall have the following functions, powers***,*** and duties:

(a) To conduct a survey of all of the existing facilities within the state having to do with the diagnosis, evaluation and treatment of patients with kidney disease and to prepare and submit its findings and a specific program of action***;***~~[.]~~

(b) To evaluate the need for the creation of local or regional facilities and for the establishing of a major kidney research center***;***~~[.]~~

(c) To develop and administer scientific investigations into the cause, prevention, methods of treatment and cure of renal disease, including research into transplantation of kidneys***;***~~[.]~~

(d) To develop techniques for an effective method of mass testing for the detection of kidney diseases and urinary tract infections***;***~~[.]~~

(e) To develop more efficient methods of medical care for kidney disease and to develop more effective and economical kidney dialysis equipment***;***~~[.]~~

(f) To survey and evaluate the need for a program of professional education and training for medical students, physicians and nurses in the care and treatment of kidney diseases***;***~~[.]~~

(g) To report to the Governor and to a committee of the Legislature annually on or before February 1 its findings, a progress report, its activities and the state's total needs in this area***; and***[~~.~~]

(h) To enter into such contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities and other units of government as may be deemed necessary and advisable to carry out the general intent and purposes of this section. Such contracts may provide for payment by the state, within the limit of funds available, for materials, equipment or services.

(2) The secretary may adopt rules and regulations necessary to effect the purposes of this section.

Section 313. KRS 211.842 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] is the radiation control agency of the State of Kentucky.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] shall develop and conduct programs for evaluation and control of hazards associated with the use of sources of ionizing, non-ionizing, and electronic product radiation.

(4) The cabinet or its duly authorized representative may enter at a reasonable time upon the property of a licensee, registrant, or other person where sources of ionizing, non-ionizing, or electronic product radiation are reasonably believed to be located for the purpose of determining whether or not such licensee, registrant, or other person is in compliance with or in violation of the provisions of KRS 211.842 to 211.852 and administrative regulations promulgated hereunder, and the owner, occupant, or person in charge of the property shall permit entry and inspection; provided, that entry into areas under the jurisdiction of an agency of the federal government or its duly designated representative shall be only upon permission of the agency or its representative.

Section 314. KRS 211.843 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] may, by administrative regulation, require licensees of radioactive materials to provide an adequate surety or other financial arrangement, in such amount as the secretary deems reasonably appropriate to cover potential clean-up costs in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the secretary regarding a radioactive material accident or other public health hazard created by the presence of radioactive material at a site occupied by the licensee or formerly under its possession, ownership, or control. Acceptable sureties include bonds issued by fidelity or surety companies authorized or eligible to do business in Kentucky, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts or such other types of arrangements, but shall not include any arrangement which essentially constitutes self insurance. The secretary shall be the obligee of the surety and the proceeds of the surety shall be used by the secretary for defraying the cost of cleaning up and decontaminating the area of property involved. Failure to comply with any regulation promulgated to carry out this section by any licensee shall result in automatic revocation of such license by operation by law.

Section 315. KRS 211.844 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The cabinet may prescribe specific conditions or means for the disposal and volume and source reduction of radioactive materials including radioactive waste. These administrative regulations shall include but need not be limited to specification of the form of applications for registration and licenses, the qualifications therefor, grounds for revocation, appeal pursuant to KRS Chapter 13B, and other matters necessary to carry out the intent of KRS 211.842 to 211.852 and to protect the public from unnecessary radiation exposure.

(2) All administrative regulations adopted prior to June 17, 1978, by the Cabinet for Human Resources and on file with the Legislative Research Commission shall continue in full force and effect unless subsequently amended or repealed pursuant to the provisions of KRS 211.842 to 211.852.

Section 316. KRS 211.846 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall monitor radioactive waste material sites in Kentucky for the protection of the public health, safety and welfare. The Finance and Administration Cabinet and the Cabinet for ***Health Services***[~~Human Resources~~] shall cooperate and coordinate their activities in the leasing, regulation, monitoring and control of radioactive waste material burial sites.

Section 317. KRS 211.848 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for registration of radiation producing machines and radioactive material licenses and for renewal of the certificates and licenses. The secretary shall also prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the cabinet.

(2) All fees and charges collected by the Cabinet for ***Health Services***[~~Human Resources~~] under the provisions of KRS 211.842 to 211.852 or the administrative regulations adopted pursuant to KRS 211.844 shall be paid into the State

Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***~~[Human Resources]~~ in carrying out the provisions of KRS 211.842 to 211.852.

Section 318. KRS 211.850 is amended to read as follows:

Whenever, in the opinion of the Attorney General or the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, the person is violating or is about to violate any of the provisions of KRS 211.842 to 211.852, or any regulation lawfully promulgated pursuant thereto, the Attorney General or the secretary may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the violative act, and upon a showing that such person has engaged or is about to engage in such activity, a restraining order or permanent or temporary injunction, or any other appropriate order shall be granted.

Section 319. KRS 211.852 is amended to read as follows:

(1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky shall require prior approval by a majority of the members of the Kentucky House of Representatives, a majority of the members of the Kentucky Senate and the approval of the Governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval to the Kentucky General Assembly, it must first receive the approval of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and the secretary of the Natural Resources and Environmental Protection Cabinet. It shall be the responsibility of the Cabinet for ***Health Services***~~[Human Resources]~~ and the Natural Resources and Environmental Protection Cabinet to ensure that a comprehensive environmental impact statement is submitted and that public hearings are held in the county in which it is proposed to locate a nuclear waste disposal facility.

(3) This section shall not apply to nuclear waste disposal facilities in existence prior to June 17, 1978.

Section 320. KRS 211.854 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ may monitor the radiation in discharges into rivers along the Kentucky border from all nuclear power plants located on either side of such rivers for the protection of the health, safety, and welfare of the citizens of the Commonwealth. Monitoring may be conducted on a continuous basis.

(2) If there is evidence that the effluent standards applicable to any nuclear power facility are not being properly and expeditiously enforced, the Attorney General shall report such violations to the United States attorney for appropriate action or bring an action of mandamus against the appropriate enforcement agency.

Section 321. KRS 211.855 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

Section 322. KRS 211.856 is amended to read as follows:

(1) No person shall engage in radon analysis, mitigation, or testing activities without obtaining certification from the Cabinet for ***Health Services***~~[Human Resources]~~. The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A, which shall include, but not be limited to, specifications of the form of applications for certification, the qualifications for certification, grounds for revocation of certification, and other matters as may be necessary to protect the public from unnecessary radiation exposure from radon.

(2) The secretary of ***health services***~~[human resources]~~ shall fix a reasonable schedule of fees, by administrative regulation promulgated pursuant to KRS Chapter 13A, to be paid by applicants for certification and renewal of radon mitigators, testors, and laboratories. The secretary shall also prescribe, by administrative regulation promulgated pursuant to KRS Chapter 13A, a reasonable schedule of fees to be paid by certified radon mitigators, testors, and laboratories for inspections and environmental surveillance activities conducted by the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) All fees and fines collected by the Cabinet for ***Health Services***~~[Human Resources]~~ under the provisions of KRS 211.855 to 211.858 or the administrative regulations promulgated pursuant to KRS 211.855 to 211.858 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***~~[Human Resources]~~ in carrying out the provisions of KRS 211.855 to 211.858.

(4) State and local governmental agencies shall be exempt from the payment of fees but shall otherwise comply with KRS 211.855 to 211.858.

Section 323. KRS 211.857 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ may institute proceedings in Circuit Court for an order enjoining a person from engaging or attempting to engage in activities which violate the provisions of KRS 211.855 to 211.858 or administrative regulations promulgated pursuant to KRS 211.855 to 211.858. Upon a showing that a person has engaged in or is about to engage in this activity, a restraining order, permanent injunction, temporary injunction, or other appropriate order shall be granted.

Section 324. KRS 211.858 is amended to read as follows:

Any person who violates KRS 211.855 to 211.858 or any administrative regulation promulgated pursuant to KRS 211.855 to 211.858 or who fails to comply with an order of the Cabinet for ***Health Services***[~~Human Resources~~] issued pursuant to KRS 211.855 to 211.858 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day the violation or noncompliance continues.

Section 325. KRS 211.870 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] may promulgate administrative regulations relating to operators of sources of radiation other than licensed practitioners of the healing arts. The administrative regulations may include, but need not be limited to, the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate radiation sources; issuance, renewal, and revocation of certificates; appeal of certificate denials or revocations pursuant to KRS Chapter 13B; and other standards or regulations appropriate for protection of health and safety.

Section 326. KRS 211.890 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is authorized to fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for examinations, certificates, and renewal certificates. All such fees and charges and other moneys collected by the Cabinet for ***Health Services***[~~Human Resources~~] under the provisions of KRS 211.870 and 211.890 or the rules and regulations adopted under KRS 211.870 and 211.890 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***[~~Human Resources~~] in carrying out the provisions of KRS 211.870 and 211.890.

Section 327. KRS 211.894 is amended to read as follows:

(1) The Governor, the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], the secretary of the Natural Resources and Environmental Protection Cabinet or any other state agency shall not enter into a contract or an agreement of any kind with the federal government relinquishing ownership of a low level nuclear waste disposal site located in the Commonwealth without prior approval of a majority of the members of the Kentucky House of Representatives and a majority of the members of the Kentucky Senate.

(2) It shall be the policy of the Commonwealth to retain final authority for approving or disapproving the locating, opening, closing, or reopening of a nuclear waste disposal site or facility within its borders.

(3) The Governor or appropriate state agencies may enter into contracts and agreements with the federal government relating to nuclear waste disposal sites located in the Commonwealth on July 15, 1980, that do not violate the provisions of subsections (1) and (2) of this section.

Section 328. KRS 211.896 is amended to read as follows:

(1) Any nuclear waste disposal facility, licensed and regulated by the Kentucky Cabinet for ***Health Services***[~~Human Resources~~], which is closed either because there is doubt as to the public safety of the site, the integrity of the site, the economic feasibility of financing perpetual care and maintenance and decommissioning of the site, or compliance with cabinet regulations, shall not reopen without:

    (a) A finding of fact by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and the secretary of the Natural Resources and Environmental Protection Cabinet that all reasons for site closure have been addressed and resolved such that there is no longer any doubt as to the public safety or integrity of the site or the ability to adequately finance the perpetual care and maintenance and decommissioning of the site or the compliance of the site with cabinet regulations; and

    (b) A public hearing and the taking of public comment on such findings of fact; and

    (c) Approval of a majority of the members of the House of Representatives and a majority of the members of the Senate; and

    (d) Approval of the Governor.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] shall be responsible for organizing the public hearings, which shall be held in the county in which the nuclear waste disposal facility is located and shall be at a time and place convenient for public participation. Adequate notification shall be given to the public of the intention to reopen a nuclear waste disposal site and the cabinet shall make available to the public the data and information upon which its decision to recommend approval of reopening of the site is based.

Section 329. KRS 211.900 is amended to read as follows:

As used in KRS 211.900 to 211.905 and KRS 211.994, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Secretary" shall mean the secretary for ***health services***[~~human resources~~] or his authorized representative;

(3) "Lead based substance" shall mean any substance containing more than 0.06% lead by weight of nonvolatile content as provided in KRS 217.801;

(4) "Dwelling" shall mean any structure, all or a part of which is designed for human habitation;

(5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling designed or used for human habitation;

(6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator, or guardian of the estate of the owner;

(7) "At risk persons" shall mean those persons who reside in dwellings or dwelling units which were constructed and originally painted prior to 1945 or other dwellings in geographic areas in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported; and

(8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after June 21, 1974.

Section 330. KRS 211.9061 is amended to read as follows:

For the purposes of KRS 211.9061 to 211.9079 and KRS 211.990:

(1) "Child-occupied facility" means a building, or portion of a building constructed prior to 1978 other than target housing in which a child, six (6) years of age or under, spends at least three (3) hours a day, two (2) days a week, including but not limited to, child day-care facilities, family child-care homes, pre-schools, and kindergarten classrooms;

(2) "Department" means the Department for ***Public*** Health[~~ Services~~];

(3) "Lead-hazard detection" means an inspection or risk assessment conducted to determine the existence, nature, severity, and location of lead hazards;

(4) (a) "Lead-hazard abatement" means a set of measures designed and intended to permanently eliminate lead hazards in a manner which will protect children and adults from the risk of lead poisoning, including the following:

  1. Removal, encapsulation, or enclosure of lead hazards;
  2. Replacement of lead-contaminated surfaces or fixtures;
  3. Removal or covering of lead-contaminated soil; and
  4. Site preparation and cleanup, preparation of debris for disposal, and other post-abatement activities which are conducted at the site and are associated with the abatement.

(b) "Lead-hazard abatement" does not include the following:

  1. Renovation, remodeling, or landscaping activities which are not designed to permanently eliminate lead hazards, but are designed to repair, restore, or remodel a structure or a dwelling, even though these activities may incidentally result in a reduction or elimination of lead hazards; or
  2. Interim controls, operations and maintenance activities, or other measures or activities designed to temporarily, but not permanently, reduce lead hazards***; and***[~~.~~]

(5) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities in which no child less than six (6) years of age resides or is expected to reside.

Section 331. KRS 211.9063 is amended to read as follows:

(1) Beginning July 1, 1997, all persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities shall be certified pursuant to this section.

(2) The Department for ***Public*** Health[~~ Services~~] shall create and administer a certification program for persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services.

(3) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish the training and testing requirements for certification. The training and testing requirements and procedures established by the department shall be sufficient to reflect the ability of the person applying for certification to provide services in accordance with local, state, and federal laws and regulations that are applicable to the duties for which the person is requesting certification.

(4) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to provide for the enforcement of the certification program. The department may revoke, suspend, or restrict the certificate of any certificate holder and may refuse to issue or renew a certificate to a person who fails to comply with certification requirements. The department may also impose sanctions for any of the following reasons:

(a) Fraud or deceit in obtaining certification;

(b) Transfer of the authority granted by the certificate to another person; or

(c) Negligence or incompetence in compliance with applicable state and federal laws, regulations, and established standards of practice.

(5) No person certified pursuant to this section shall perform lead-hazard abatement services in target housing or child-occupied facilities, as defined in KRS 211.9061, without having obtained a permit to perform the services. An application for the permit shall be made to the department upon forms provided by the department, and shall be accompanied by the required fee established pursuant to KRS 211.9067. The permit fee shall be sufficient to fully cover the cost of the quality assurance inspection conducted to determine compliance with the certification requirements of this section, and the performance standards established pursuant to KRS 211.9075.

(6) The department shall consider and render a decision in response to a permit application submitted pursuant to subsection (5) of this section no later than seven (7) calendar days after the application and the applicable fee are received by the department. The quality assurance inspection of a lead-hazard abatement site shall occur no later than seven (7) working days after the department receives notification from the permit holder that the lead-abatement at the site has been completed. If the department does not meet the seven (7) day deadline, the department shall allow the permit holder to begin construction or other renovation activities upon completion of the abatement service. This approval shall not serve as a substitute for the final inspection required to determine compliance pursuant to subsection (5) of this section.

Section 332. KRS 211.9065 is amended to read as follows:

(1) Beginning January 1, 1997, all training programs providing or offering to provide an educational program designed to prepare persons for certification in lead-hazard detection or lead-hazard abatement services, pursuant to KRS 211.9063, shall be accredited pursuant to this section.

(2) The Department for ***Public*** Health[~~ Services~~] shall create and administer an accreditation program for training programs providing or offering to provide an educational program designed to prepare persons for certification in lead-hazard detection or lead-hazard abatement services.

(3) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish:

(a) The requirements for accreditation of training providers;

(b) The minimum requirements for curriculum content;

(c) The number of training hours to be completed by the trainee;

(d) The minimum amount of the training which requires the trainee to practice or otherwise apply lead-hazard detection or abatement skills or techniques in a hands-on manner; and

(e) The competency and proficiency to be demonstrated by the trainee in order to successfully complete the training.

(4) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to provide for enforcement of the quality control standards for accredited training programs. The department may revoke, suspend, or restrict the certificate of accreditation for training providers and may refuse to issue or renew a certificate of accreditation to a training provider which fails to comply with accreditation requirements.

Section 333. KRS 211.920 is amended to read as follows:

As used in KRS 211.925 to 211.945, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~].

(2) "State confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of the Commonwealth of Kentucky.

(3) "Public health and health" shall mean and include, but shall not be limited to, all environmental, dental, mental, medical, and nutritional aspects of the health of persons confined in a state confinement facility.

Section 334. KRS 211.950 is amended to read as follows:

As used in KRS 211.952 to 211.958, unless the context otherwise requires:

(1) "Ambulance" means a vehicle which has been inspected and approved by the cabinet, including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being***;***[~~.~~]

(2) "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the Cabinet for ***Health Services***[~~Human Resources~~] to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters or fixed wing aircraft. An ambulance provider may be licensed as an air ambulance provider; as a Class I ground ambulance provider; as a Class II ground ambulance provider; or as a Class III ground ambulance provider***;***[~~.~~]

(3) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury***;***[~~.~~]

(4) "Emergency medical services system" means a coordinated system of health care delivery that responds to the needs of the acutely sick and injured, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained personnel, medical first response, ground and air ambulance services, emergency medical facilities and specialty care hospitals, trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures***;***[~~.~~]

(5) "Regional emergency medical services system" means a system approved by the Cabinet for ***Health Services***[~~Human Resources~~] which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health care services in an appropriate geographical area***;***[~~.~~]

(6) "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability***; and***[~~.~~]

(7) "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

Section 335. KRS 211.952 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall maintain a program for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] shall establish and designate a single lead agency under the supervision and direction of the Commissioner of Health which will carry out all administrative functions related to the planning, development, improvement, and expansion of emergency medical services systems throughout the state. This will include:

- (a) The training and certification of prehospital personnel;
- (b) The promulgation of standards and regulations for emergency medical services personnel;
- (c) The promulgation of administrative regulations for the licensing, inspection, and regulation of ambulance and medical first response providers. The administrative regulations shall address specific requirements for:
  1. Air ambulance providers which provide basic or advanced life support services;
  2. Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for both emergencies and scheduled ambulance transportation which is medically necessary;
  3. Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;
  4. Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care; and
  5. Medical first response providers who provide prehospital basic life support services, or advanced life support services, but do not transport patients;
- (d) Planning and development of emergency medical services and trauma care systems;
- (e) Promulgation of voluntary standards for trauma centers and other specialized emergency medical facilities;
- (f) Provision of funding and technical assistance as shall become available; and
- (g) Establishing minimum data reporting requirements for ambulance providers and trauma centers and other specialized emergency medical facilities and collection and analysis of data related to the provision of emergency medical services and trauma care.

(3) Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.

(4) The cabinet shall transfer or otherwise make available to the lead emergency medical services agency necessary staff and funds required to carry out the purposes of this section, including regional emergency medical services advisors for any regional emergency medical services systems which shall be established by the cabinet, and shall promulgate administrative regulations and perform the necessary functions to carry out the purpose of this section including:

- (a) Delineation, by administrative order of the secretary, of the geographic boundaries of regional emergency medical services systems.
- (b) Promulgation of administrative regulations providing for:
  1. Composition of regional emergency medical services advisory boards to serve in an advisory capacity to the Kentucky Emergency Medical Services Council;

2. Terms of office of regional emergency medical services advisory board members;

3. Appointment of regional emergency medical services advisory board members; and

4. Such other matters relating to regional emergency medical services systems as may be necessary.

(c) Provision of technical assistance to regional emergency medical services advisory boards, units of local government, and others in planning for the development, coordination, and monitoring of emergency medical services.

(d) Development of a statewide plan for the implementation of emergency medical services systems and trauma care systems within the Commonwealth of Kentucky which specifically addresses the unique needs of rural areas.

(e) Issuance of a format for the development of regional emergency medical services plans consistent with goals and standards included in the statewide emergency medical services plan.

(f) Application for, receipt of, and disposition of federal, state, or private funds by grant, appropriation, donation, or otherwise for emergency medical services programs, personnel and equipment.

(g) Awarding of funds to regional emergency medical services systems to implement specific objectives delineated in regional emergency medical services plans, including assistance to local governments for their provision of ambulance service.

(h) Development, monitoring, and encouragement of such other projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(i) Conducting verification inspections to ensure compliance with voluntary standards established by the cabinet for trauma centers, emergency departments, and specialized hospital based services for which standards have been established by the cabinet for emergency medical services and trauma care systems.

(5) The cabinet shall establish a Kentucky Emergency Medical Services Council which shall advise the cabinet on issues relating to the development, implementation, regulation, maintenance, and reimbursement of emergency medical services systems and providers. This council shall be broadly representative of individuals, providers, and public officials having expertise in emergency medical services. The council shall consult with the Kentucky Board of Medical Licensure to establish medically appropriate standards and protocols which will be utilized by emergency medical services personnel and to assist the Kentucky Board of Medical Licensure in meeting the requirements of KRS 311.654. The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.

(6) Data and records generated and kept by the single emergency medical services administrative agency or its contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth shall be held confidential, shall not be admissible in court for any purpose, and shall not be subject to discovery; provided, however, that nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment which otherwise would be admissible or discoverable.

(7) Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.

Section 336. KRS 211.954 is amended to read as follows:

A matching fund program is hereby created for the purpose of assisting local ambulance providers in the purchases of ambulances and equipment. The fund shall consist of such moneys as may be appropriated by the General Assembly or may be obtained from other sources for the fund as provided in this section and KRS 211.956:

(1) Application and justification of need for moneys from the fund shall be based upon the state emergency medical services plan's priorities;

(2) Application for moneys from the fund may be made to the Cabinet for ***Health Services***[~~Human Resources~~] by any city, county, or regional emergency medical services system based upon guidelines established by the Cabinet for ***Health Services***[~~Human Resources~~];

(3) Moneys from the fund will provide for up to a maximum of fifty percent (50%) of the actual cost of any ambulance or other item of equipment desired to be procured. No county, including all grants to entities within the county, shall receive more than twenty-five thousand five hundred dollars ($25,500) from the fund per year;

(4) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the recipient city, county, or regional emergency medical services system;

(5) Funding periods shall coincide with the fiscal year as established by the Cabinet for ***Health Services***[~~Human Resources~~]; and

(6) Each ambulance or item of equipment purchased shall meet or exceed, if a standard has been set for the particular item of equipment, the standards set by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 337. KRS 211.956 is amended to read as follows:

A matching fund program is hereby created for the purpose of assisting city and county governments in providing for an adequate number of trained emergency medical service personnel to respond to medical emergencies:

(1) Moneys from the fund may be provided to a city or county government for the following purposes:

(a) Purchase of emergency medical services training equipment and emergency medical services training aids;

(b) Provision of continuing education to certified emergency medical technicians, paramedics, first responders, and related emergency medical services personnel who respond to medical emergencies which is required to maintain state certification or licensure;

(c) Salary and fringe benefit enhancements for emergency medical technicians and paramedics who serve as attendants of ambulance services which are owned and operated by the applicant city or county or by an ambulance service district established pursuant to KRS Chapter 108; and

(d) Programs to train the general public in cardiopulmonary resuscitation or first aid in order to increase the likelihood of a citizen to render assistance in medical emergencies.

(2) Application for money from the fund may be made to the Cabinet for ***Health Services***[~~Human Resources~~] by any city or county on an application form established by the cabinet. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A which set out further requirements and priorities for funds made available under this section.

(3) No county, including all grants to cities within the county, shall receive more than ten thousand dollars ($10,000) from the fund per year. Applicant cities and counties shall submit an acceptable plan to the cabinet to document the need for funds authorized under this section and to justify the funds requested and if approved shall submit a final report of activities conducted and report of expenditures based on the approved plan in a format established by the cabinet.

(4) Based on the availability of funds appropriated by the General Assembly, the cabinet shall annually prepare a preliminary estimate of funds available for each county prorated on the basis of each county's total population.

(5) Moneys awarded from the fund shall not exceed fifty percent (50%) of the approved total cost of any eligible application up to the total allocation available to each county.

(6) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the city or county.

Section 338. KRS 211.962 is amended to read as follows:

No person shall:

(1) Hold himself out as certified pursuant to KRS 211.962 to 211.968 nor use the initials "EMT" when he does not hold a current valid certification issued pursuant to KRS 211.962 to 211.968; or

(2) If certified, violate any provision of KRS 211.962 to 211.968 or any rule or regulation, adopted by the Cabinet for ***Health Services***[~~Human Resources~~] relating to KRS 211.964.

Section 339. KRS 211.964 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations relating to emergency medical technicians. The regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.

(2) Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet. The continuing education program shall be subject to the requirements of KRS 214.610(1).

(3) In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.

(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.

(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.

(6) Other than the requirements of KRS 214.610(1), the cabinet shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.

(7) Other than the requirements of KRS 214.610(1), any person certified by the State Board of Medical Licensure as a paramedic shall be certified as an emergency medical technician by the cabinet. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that paramedic certification is issued or expires, and if a paramedic voluntarily gives up his certification prior to the expiration of his paramedic certification, his emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to recertify as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic certification, recertify as an emergency medical technician utilizing one (1) of the methods provided for in this section.

(8) A paramedic whose certification as a paramedic is suspended, revoked, or denied by the State Board of Medical Licensure shall have the same action taken automatically by the cabinet with regard to his emergency medical technician certification.

Section 340. KRS 211.966 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of certificates, and for the renewal of certificates issued pursuant to KRS 211.962 to 211.968. All such fees, charges or other moneys collected by the cabinet under KRS 211.962 to 211.968 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***[~~Human Resources~~] for carrying out the provisions of KRS 211.962 to 211.968.

Section 341. KRS 211.970 is amended to read as follows:

As used in KRS 211.972 to 211.982, unless the context requires otherwise:

(1) "Approved" means that which has been considered acceptable to the cabinet;

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~] and includes its authorized agents;

(3) "Grease" means fats or oils of animal, vegetable, or mineral origin, separately or in colloidal or dissolved states in combination with soaps, detergents, or food particles;

(4) "Grease trap" means a component designed to separate grease and its constituents from the wastewater stream, provide for storage of separated grease, and discharge the remaining wastewater for treatment;

(5) "Holding tank" means a tank which provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil absorption system, or connection to a municipal sewer. It also includes portable toilets and similar temporary use units which contain holding tanks;

(6) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, or governmental unit;

(7) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~];

(8) "Sewage" means domestic blackwater and greywater wastes, but does not include waste from industrial or commercial processes;

(9) "Sewage pretreatment unit" means a watertight sewage treatment structure designed and constructed to receive raw sewage, separate solids from liquids, digest organic matter through a period of retention, and allow clarified effluent to discharge to a subsurface soil absorption system. Pretreatment units fall into three (3) basic categories:

  (a) Septic tanks, which rely predominantly on anaerobic bacterial action for treatment;

  (b) Aerobic units, which introduce atmospheric air into the sewage to promote treatment by aerobic bacteria; and

  (c) Combination units, which provide treatment through both anaerobic and aerobic bacterial action and mechanical filtering, ozonation, or ultraviolet irradiation;

(10) "Sewage sludge" means the solid or semisolid residues which are retained within a sewage pretreatment unit or grease trap, as a result of mechanical, hydraulic, biologic, or chemical actions. It also includes raw sewage accepted and stored within a holding tank;

(11) "Site" means a facility or parcel of land under the ownership of any person which is intended for use as the ultimate disposal or treatment location for sewage sludge; and

(12) "Tank" means any container placed on a vehicle to carry in transport sewage sludge removed from a sewage pretreatment

unit, grease trap, or holding tank.

Section 342. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for ***Health Services***[~~Human Resources~~] to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for ***Health Services***[~~Human Resources~~] adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6) A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.

(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.

(8) A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(9) Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(10) The penalties provided in subsections (6), (7), (8), and (9) of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(11) Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

Section 343. KRS 211.991 is amended to read as follows:

(1) Any person who intentionally violates any of the provisions of KRS 211.670 shall be guilty of a Class A misdemeanor.

(2) The penalty provided for in subsection (1) of this section shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the Department for ***Public*** Health[~~ Services~~].

Section 344. KRS 211.993 is amended to read as follows:

Anyone who fails to comply with any provisions of KRS 211.870, 211.890 or with any rules or regulations adopted pursuant to KRS 211.870, 211.890 or fails to comply with any order of the Cabinet for ***Health Services***[~~Human Resources~~] issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of such violation or noncompliance shall constitute a separate offense.

Section 345. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall appoint, from a list of nominees, three (3) qualified, licensed, and practicing physicians; one (1) qualified, licensed, and practicing dentist; one (1) qualified, licensed, and practicing registered nurse; one (1) licensed engineer engaged in the practice of civil or sanitary engineering; one (1) qualified, licensed, and practicing optometrist; one (1) qualified licensed and practicing veterinarian; and one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, and county health department staff; and nominations of physicians, dentists, nurses, engineers, optometrists, and veterinarians shall be solicited and obtained from the county's medical society, dental society, nursing association, engineering association, optometric association, and veterinarian association, respectively. If a county does not have three (3) qualified, licensed, and practicing physicians or one (1) qualified, licensed, and practicing dentist or one (1) qualified, licensed, and practicing registered nurse or one (1) qualified, licensed, and practicing civil or sanitary engineer or one (1) qualified, licensed, and practicing optometrist or one (1) qualified, licensed, and practicing veterinarian residing therein, the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may appoint a resident lay person knowledgeable in

consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years with physicians, dentists, and fiscal court appointees appointed in even-numbered years and nurses, engineers, optometrists, veterinarians, and lay appointees appointed in odd-numbered years, for terms from the date of their appointment, beginning on or after January 1, 1993, and until their successors are appointed, except the terms of the first appointment of all physician and fiscal court appointee terms beginning on January 1, 1993, shall expire on December 31, 1993; dentist terms beginning on August 1, 1992, shall expire on December 31, 1993; nurse, engineer, and optometrist appointments beginning on August 1, 1992, shall expire on December 31, 1994; and veterinarian and lay appointments beginning on October 1, 1992, shall expire on December 31, 1994. The members of the board shall receive no compensation for their services.

(2) The secretary shall remove any member, other than the county judge/executive or fiscal court appointee, who fails to attend three (3) consecutive scheduled meetings, and may remove any board member, except the county judge/executive or fiscal court appointee, as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 346. KRS 212.025 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] and any local health department, with the approval of the Cabinet for ***Health Services***[~~Human Resources~~], is hereby authorized to provide home nursing care services and other health services and may charge fees therefor. The secretary of the Cabinet for Human Resources shall adopt a fee schedule covering all charges for such services.

(2) All fees and charges collected by the Cabinet for ***Health Services***[~~Human Resources~~] or the local health department concerned shall be credited to a trust and agency fund to be used only for carrying out the provisions of this section.

Section 347. KRS 212.120 is amended to read as follows:

(1) Upon the creation of a county health department, the fiscal court of the county shall at once notify the Cabinet for ***Health Services***[~~Human Resources~~] of the action of the county to create, establish and maintain a county health department. When the duly qualified officials of a county certify to the Cabinet for ***Health Services***[~~Human Resources~~] a true copy of the order or vote establishing a health department, and providing for its maintenance, and state the amount of the annual appropriation provided by the county the Cabinet for ***Health Services***[~~Human Resources~~] shall make an investigation as to the necessity of the development of the department, and the adequacy of the appropriation provided by the county therefor, and shall report its findings to the Governor.

(2) If the Cabinet for ***Health Services***[~~Human Resources~~] finds that such county health department has been established in accordance with the provisions of this chapter and is being maintained, conducted and operated in accordance with the standards prescribed by the Cabinet for ***Health Services***[~~Human Resources~~], the Cabinet for ***Health Services***[~~Human Resources~~] shall, on or before July 1 in each year, allot to each such county health department such amount that the Cabinet for ***Health Services***[~~Human Resources~~] deems to constitute a just and equitable share of all funds available therefor by appropriation by the General Assembly of this Commonwealth, by grants and gifts received by this Commonwealth from the government of the United States of America or any of its agencies or instrumentalities, and from other sources. Provided, however, that no allotment to any such county health department shall be less than two thousand five hundred dollars ($2,500).

(3) In determining the allotments referred to in subsection (2) of this section, the Cabinet for ***Health Services***[~~Human Resources~~] shall endeavor to provide for a distribution of the funds in a manner that is reasonably calculated to equalize, so far as practicable, local health services to the people of all counties served by the county health departments. The Cabinet for ***Health Services***[~~Human Resources~~] may take into consideration variations existing between counties by reasons of difference in population, resources, industrialization, tax assessments and tax rates, and other local factors and conditions; the legislative intent being hereby declared to be that counties shall provide, from local sources of revenue that are available or that may be made available to them, financial support of county health departments to the extent of their representative abilities.

(4) The Cabinet for ***Health Services***[~~Human Resources~~] may, in its discretion alter or modify allotments from time to time and shall cancel any allotment whenever it finds that there is no further need or necessity for a particular county health department for whose benefit the allotment was made or whenever a particular county health department for whose benefit an allotment was made is not maintained, operated and conducted in accordance with the standards prescribed by the Cabinet for ***Health Services***[~~Human Resources~~]. Nothing in this section shall be construed as requiring the Cabinet for ***Health Services***[~~Human Resources~~] to allot all funds available for local health purposes, or as prohibiting the department from allotting such portion thereof, as the department may determine, to a reserve account which may be suballotted by the department in such a manner that it considers proper in the event of emergencies, disaster, or unforeseen events, without regard to the provisions of subsection (3) of this section.

(5) Notwithstanding the provisions of KRS 45.229 and any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any appropriations made available for allotment and expenditure, as provided above, for the first fiscal year of each biennium, remaining at the end of such fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion thereof shall

lapse to the general fund.

Section 348. KRS 212.130 is amended to read as follows:

Immediately after receiving notice of the creation of a county or district department of health, the Cabinet for ***Health Services***[~~Human Resources~~] shall notify the secretary of the county board or boards of health to call a meeting of the county board or boards of health for the purpose of organizing the county or district department of health.

Section 349. KRS 212.170 is amended to read as follows:

(1) The county board of health of each county having a county department of health shall, subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~], appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the Cabinet for ***Health Services***[~~Human Resources~~].

(2) A health officer may:

(a) With the approval of the Cabinet for ***Health Services***[~~Human Resources~~] and the local boards of health concerned, serve in such capacity for more than one county; and

(b) At the discretion of the local board, act as chief administrative officer of the board.

(3) A health officer may appoint an administrative assistant for each county served by him subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~]. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.

(4) A health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~], all medical, technical, clerical, professional, and other employees necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the Cabinet for ***Health Services***[~~Human Resources~~].

(5) In the absence of a local health officer, the secretary for ***health services***[~~human resources~~] or his duly appointed representative shall serve as health officer for the county concerned.

(6) Appeals under the local health department merit system shall be conducted in accordance with KRS Chapter 13B.

Section 350. KRS 212.180 is amended to read as follows:

Every health officer provided for by this chapter shall be a duly licensed physician, and shall possess such other qualifications that are prescribed by the cabinet for ***Health Services***[~~human resources~~].

Section 351. KRS 212.190 is amended to read as follows:

(1) The health officer of counties that do not have a county department of health shall receive a reasonable compensation, the amount of which shall be fixed by the fiscal court at the time of, or immediately after, his election, and to be paid as other county officers are paid. In no case shall such health officer claim or receive from the county any compensation other than the salary fixed by the fiscal court.

(2) The health officer of counties having a county department of health shall receive a salary to be fixed by the county board of health subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~]. He shall receive necessary traveling expenses.

Section 352. KRS 212.210 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] and the local boards of health may examine into all nuisances, sources of filth, and causes of sickness that may, in their opinion, be injurious to the health of the inhabitants in any county in this state, or in any vessel within any harbor or port in any county in this state. Whenever any such nuisance, source of filth, or cause of sickness is found to exist on any private property, or in any vessel within any port or harbor in any county in this state, or upon any watercourse in this state, the Cabinet for ***Health Services***[~~Human Resources~~] or the local board of health may order, in writing, the owner or occupant thereof, at his own expense, to remove the same within twenty-four (24) hours, or within such reasonable time thereafter as the board may order.

(2) If drinking water used by school children is found to be dangerous to their health, the local board of health or Cabinet for ***Health Services***[~~Human Resources~~] may order that a supply of pure water be furnished at the expense of the county or city board of education.

(3) If in the opinion of the local board of health or Cabinet for ***Health Services***[~~Human Resources~~] a school building is constructed in violation of law and is found to be unsanitary or unsafe for the housing of children, the local board of health or Cabinet for ***Health Services***[~~Human Resources~~] may institute an action in the Circuit Court of the county where the building is situated, and the court, after due hearing and verifying the facts, may order a safe and sanitary school building to be erected within a reasonable time by the county or city board of education in accordance with the laws of the state governing the erection of schoolhouses and the control of disease, and the rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~].

(4) Any local board of health shall, for the purpose of controlling and eradicating rats and other unsanitary nuisances, require the owner or possessor of any building designed for human habitation and containing two (2) or more apartment units, to

provide, where a specific area has been designated for the depositing of refuse on the premises, waste receptacles approved by the board. The board may further require that the design, construction, and maintenance of the area in which the waste receptacles are kept meet reasonable standards set by the board.

Section 353. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for ***Health Services***~~[Human Resources]~~;

(b) Hold a regular meeting at least once every three (3) months, except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months, and other special or regular meetings as desired and keep full minutes of all the proceedings in a book provided for this purpose;

(c) Adopt, except as otherwise provided by law, administrative regulations not in conflict with the administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

(d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, in accordance with KRS Chapter 13B, if the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of; ***and***

(f) Perform all other functions necessary to carry out the provisions of law and the regulations adopted pursuant thereto, relating to local boards of health; ***and***

(2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 354. KRS 212.240 is amended to read as follows:

County departments of health shall:

(1) Administer and enforce in the county and in all cities and towns situated therein, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all of the rules and regulations of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and county board of health issued thereunder;

(2) Under the general supervision of the county board of health and the Cabinet for ***Health Services***~~[Human Resources]~~, formulate, promote, establish, and execute policies, plans, and programs to safeguard the health of the people of the county and establish, maintain, implement, promote, and conduct facilities and services for the purpose of protecting the public health; ***and***

(3) Make such statistical or other reports relating to the activities of the department as they may deem expedient or as may be required by the county board of health or the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 355. KRS 212.245 is amended to read as follows:

County, city-county, and district health departments may:

(1) Utilize available services, facilities, equipment and personnel of the Cabinet for ***Health Services***~~[Human Resources]~~ or of the United States Public Health Service upon such terms of payment or reimbursement as are agreed on by the department and the Cabinet for ***Health Services***~~[Human Resources]~~ or the United States Public Health Service;

(2) Contract for services not otherwise available;

(3) Provide for the public health training and instruction of employees and compensate and defray the reasonable expenses of said employees while they are pursuing public health training courses approved by the Cabinet for ***Health Services***~~[Human Resources]~~;

(4) Establish or contribute to a retirement system or fund for employees of the department, including any retirement system for state employees;

(5) Issue and require the heads of families and other persons to execute such orders as it considers expedient to prevent the outbreak and spread of communicable diseases, and to this end bring the infected population under prompt and proper treatment;

(6) Issue written orders directed to the owner or occupant of any property, or to any person, firm or corporation whatever, commanding, within the time and manner specified in the order, compliance with applicable public health laws of this state and all regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ or the county board of health. Notwithstanding the provisions of this section and KRS 212.210, any health officer may institute and maintain mandatory or prohibitory injunction proceedings in the appropriate Circuit Courts of this state to abate nuisances that are or may be a menace to the health of the people of the state or community, and to compel compliance with the public health laws of this state and the rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ and the

county board of health and the orders described in this section or in KRS 212.210;

(7) Through its health officers, representatives and agents, enter upon any premises when necessary for the purpose of making inspections and investigations and view evidence and interrogate persons to the extent required in the performance of their duties and responsibilities. The department or the health officer thereof may issue subpoenas, subpoena duces tecum and all necessary process in proceedings brought before or initiated by the department or board, and such process shall extend to all parts of the Commonwealth. Service of process may be made by certified mail, return receipt requested or in the manner prescribed by the Rules of Civil Procedure;

(8) Provide administrative, investigative and clerical services required by the local board of health;

(9) Cooperate with other health departments, agencies and organizations in matters relating to public health;

(10) Elect coverage under the state's workers' compensation laws with the approval of the Cabinet for ***Health Services***[~~Human Resources~~]; ***or***

(11) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 356. KRS 212.260 is amended to read as follows:

(1) The health officer of a county that does not have a county department of health shall enforce the rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~] and county boards of health.

(2) The health officer of a county that has formed a county department of health shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county board of health and keep full minutes of the proceedings of the county board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county health department.

Section 357. KRS 212.270 is amended to read as follows:

The county and Commonwealth's attorneys and the Attorney General, within their respective jurisdictions, shall represent the Cabinet for ***Health Services***[~~Human Resources~~] and local boards of health in all matters relating to the enforcement of the health and medical laws and the performance of the duties of those boards, but when the secretary for ***health services***[~~human resources~~] deems it necessary, it may employ at its discretion special attorneys and inspectors to assist the county and Commonwealth's attorneys or the Attorney General and may pay reasonable compensation for the same from any unexpended funds at its disposal.

Section 358. KRS 212.370 is amended to read as follows:

When the board has been organized and the properties transferred, as[~~ herein~~] provided ***in KRS 212.350 to 212.620***, the board, throughout said county, including all municipalities therein, shall, except as otherwise provided by law, have exclusive control and operation, under the acts of the General Assembly of Kentucky, the ordinances, if any, of the legislative bodies of the municipalities in said county, the orders and resolutions, if any, of the fiscal court of said county, the regulations of the Cabinet for ***Health Services***[~~Human Resources~~], and the rules and regulations of the board, of all matters relating to institutions safeguarding the public health, including city or county hospitals, tuberculosis hospitals, eruptive hospitals, chronic hospitals, medical care of the indigent, and all other matters affecting public health, including education of the public regarding such conditions, and the adoption of remedial measures, and the enforcement of all laws and regulations affecting public health, including existing ordinances of such city and, if any, of other municipalities in said county, and any ordinances which may be hereafter enacted by the legislative bodies of such municipalities, including laws and ordinances regulating sanitation, milk inspection, meat inspection, livestock inspection, wells, drinking water and fountains, vaults, vaccination and immunization, quarantine, and the maintenance of laboratories and clinics necessary for the promotion of public health. The board may expend funds for the purpose of conducting research work, including laboratory and biometrical work, and establishing, erecting and maintaining laboratories and other buildings and all appurtenances thereto for research work as to the prevalence, causes, cure, and prevention of disease, and to that end the board is authorized to expend funds in the employment of such persons or organizations, scientists, or research experts as the board may deem proper. The board shall be charged with the responsibility for the collection from official and other sources and for the publication of such statistics and information as may be useful and necessary for the performance of its duties, and upon such other matters as such municipalities by ordinance and said county, by resolution of the fiscal court, respectively, or the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky, by regulation, place under the control of said board. The board may charge reasonable fees to sewage treatment plant operators for the regulation and inspection of sewage treatment plants to be paid within twelve (12) months from the time of regulation and inspection.

Section 359. KRS 212.420 is amended to read as follows:

The director of health shall be a physician, qualified as a public health administrator as provided by standards set up by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky and duly qualified and licensed or eligible for license as a medical practitioner in the Commonwealth of Kentucky. He shall receive an annual salary of five thousand dollars

($5,000), payable as other salaries are paid, and shall serve at the pleasure of the board. If said director of health is removed by the board he shall be notified thereof in writing, and before such removal shall become effective said director shall have ten (10) days within which to make a written request for a public hearing in regard thereto. The board shall not be required to hold a hearing unless so requested by said director. If no such request is made said removal shall become effective upon the expiration of said ten (10) day period. If such request is made said public hearing shall be held at the office of the board within ten (10) days after such request is received by the board, and said director shall not be removed until after such hearing has been held, and a decision rendered by the board. The board's decision shall be final.

Section 360. KRS 212.430 is amended to read as follows:

(1) The board shall fix the compensation of all agents and employees of the board, and such compensation shall be as nearly comparable as practicable with the compensations paid and received by corresponding or comparable civil employees of such city or county.

(2) The agents and employees of the board shall be employed and governed, as provided ***in this subsection***[~~herein~~], in accordance with the merit system. For the purpose of governing the employment, appointment, suspension, layoff, and dismissal of employees by the board, and personnel matters relating thereto, any law or laws, or amendments thereof, and any rules and regulations issued pursuant thereto, authorizing, creating and governing any city board or commission empowered to administer and enforce civil service laws, rules and regulations in and for such city are hereby made applicable to the personnel and personnel matters of the board to the extent of and with respect to corresponding and comparable offices, positions and places of employment of and under the board. Such city board or commission is hereby authorized and directed to perform, without compensation from the board, all things necessary to be done to accomplish the aforesaid purpose, including the creation and putting into effect of, and maintaining, a "classified service," in accordance with which the board will be governed in the employment of agents and employees and in the performance of its duties under this section. The director of health of the board shall function as appointing authority in and with respect to said personnel matters of the board. Provided, however, regulations of such city board or commission as may administer the civil service laws, rules and regulations in such city, as applied to employees of the board, shall be not less stringent than those of the merit system of the Cabinet for ***Health Services***[~~human resources~~] of Kentucky.

Section 361. KRS 212.550 is amended to read as follows:

The board shall install and maintain a modern and efficient system of accounting and keep financial records. The board, however, may select and use the finance department of such city to do its financial accounting and make its disbursements in such manner as may be agreed upon by and between the board and the director of finance of said city, which work shall be done by said finance department without compensation from the board. The Auditor of Public Accounts of the Commonwealth of Kentucky, the comptroller and inspector of such city, and the county auditor of such county, respectively, shall have access to the books and the records of the board, and upon the request of the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky said Auditor of Public Accounts, or upon the direction of the legislative body of such city the said comptroller and inspector, or upon the direction of the fiscal court of such county the said county auditor, shall make an audit of the board's accounts and report back thereon.

Section 362. KRS 212.570 is amended to read as follows:

The board shall make an annual report of its fiscal and other operations to the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky, the fiscal court of such county and to the legislative body of such city. Such report shall be filed within sixty (60) days after the close of the board's fiscal year and shall be accompanied by such information, tables and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding fiscal year.

Section 363. KRS 212.600 is amended to read as follows:

All municipalities in any county of this Commonwealth in which county there is located a city of the first class are hereby made subject to the provisions of KRS 212.350 to 212.620, and it shall be the duty of the board created ***in KRS 212.350***[~~herein~~] to make and enforce all reasonable regulations controlling or affecting the health of citizens and residents of said county, including all municipalities therein, in conformity with the provisions of KRS 212.350 to 212.620 and the laws of the Commonwealth of Kentucky, the rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky, and the ordinances of said municipalities now or hereafter in effect and not in conflict with the provisions of KRS 212.350 to 212.620. Such regulations shall, as nearly as may be practicable, be uniform throughout the county, both within and without the said municipalities; provided, however, that nothing[~~ herein~~] contained ***in this section*** shall be construed to prevent the board from making specific health regulations applying only to such section or sections of said county as may be deemed to require special treatment. The board shall have power and authority to examine into all nuisances, sources of filth, and causes or probable causes of sickness, which may in its opinion be injurious to the health of the residents of such county or of any section or sections thereof.

Section 364. KRS 212.626 is amended to read as follows:

As used in KRS 212.627 to 212.639, unless the context otherwise requires:

(1) "Board" means the urban-county board of health***;***[~~.~~]

(2) "City-county board of health" means the city, county, or city-county board of health existing in the county on July 1,

1977***;***[~~.~~]

(3) "City-county department of health" means the city, county, or city-county department of health existing in the county on July 1, 1977***;***[~~.~~]

(4) "Commissioner" means the commissioner of health for the urban-county health department***;***[~~.~~]

(5) "County" means any county of the Commonwealth containing any city with a population of over 100,000 at the time of merger creating an urban-county form of government***;***[~~.~~]

(6) "Department" means the urban-county department of health as created ***in KRS 212.627***[~~herein~~] and its designated agents***;***[~~.~~]

(7) "Cabinet for ***Health Services***[~~Human Resources~~]" means the Cabinet for ***Health Services;***[~~Human Resources.~~]

(8) "Mayor" means the chief executive officer of any county containing any city with a population of over 100,000 at the time of merger creating an urban-county form of government***; and***[~~.~~]

(9) "Person" means any person, or domestic or foreign individual corporation, government, or governmental subdivision or agency, business, estate, trust, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

Section 365. KRS 212.628 is amended to read as follows:

(1) All real, personal***,*** and mixed property belonging to the city-county board of health or city-county department of health is hereby transferred to the board and the city-county board of health or city-county department of health shall take all the necessary and proper steps to effect the legal transfer of title and possession of all such property to the board.

(2) When the board has been organized and all property transferred as provided under subsection (1) of this section, the board may control, operate***,*** or monitor all matters within the county affecting public health including institutions established to safeguard the public health which may encompass city or county medical facilities, nursing homes, medical care of the indigent, and laboratories and clinics necessary for the promotion of public health and environmental protection and which are required or permitted under the provisions of any act of the General Assembly, under any ordinances, orders***,*** and resolutions of the legislative body of the county, or under any rules or regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~], or by the board.

Section 366. KRS 212.636 is amended to read as follows:

(1) The board shall establish the compensation plan for all employees of the department, and such compensation shall be as nearly comparable as practicable with the compensation paid to and received by employees in comparable agencies.

(2) The employees of the department shall be employed and governed in accordance with a merit system. The board shall provide for the recruitment, examination, appointment, promotion, transfer, layoff, removal, discipline, compensation, and welfare of the department's employees by establishing a system of personnel administration based on merit principles and scientific methods whereby the rules and regulations of such system shall not be less stringent than those of the merit system of the Cabinet for ***Health Services***[~~Human Resources~~]. Such system shall include a personnel board of five (5) members appointed by the board for two (2) year terms. The board shall select as members of the personnel board public-spirited citizens of recognized experience in the improvement of public administration and in the impartial selection of efficient public personnel. The personnel board shall be responsible for establishing rules and regulations for the purpose of governing the administration of the personnel system. The commissioner shall function as appointing authority in and with respect to the personnel matters of the board. The board shall have one (1) year from July 1, 1977, to implement such a system.

(3) Notwithstanding the provisions of KRS 61.510 to 61.692 and KRS 78.510 to 78.852, on July 1, 1977, all regular full-time present and future public health employees of the department shall be included within the provisions of the state retirement system.

(4) When the board is qualified and organized as[~~ herein~~] provided ***in KRS 212.626 to 212.639***, all city-county department of health employees at that time shall be transferred to and continued in the service of the department created under KRS 212.626 to 212.639. Provided, however, that any and all of such employees who at that time are in the classified service of the city-county department of health shall be continued in the classified service of the department with the same status they have had in the classified service of the city-county department of health.

Section 367. KRS 212.639 is amended to read as follows:

(1) In order to provide sufficient funds for carrying out the provisions of KRS 212.626 to 212.639, the department shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for ***Health Services***[~~Human Resources~~] as provided in KRS 212.120, the legislative intent being hereby declared to be that funding from the Cabinet for ***Health Services***[~~Human Resources~~] be continued at least at the same level and proportion after July 1, 1977, as before its implementation and that modification or alteration of the annual allotment not be made unless for causes enumerated under the provisions of KRS 212.120.

(2) In the event the sums derived from the appropriations, together with funds otherwise available from any other source to the board during any fiscal year, for its necessary expenditures in the maintenance and operation of the board, exceed its need for such expenditures during such fiscal year, any such unexpended funds at the end of the fiscal year shall be carried forward by the board to be used in paying for its operating costs and expenses for its ensuing year.

(3) The fiscal year of the board shall begin on July 1 of each year and shall end on June 30 of the following year.

(4) In a timely fashion governed by the requirements of the various funding sources such as the Cabinet for ***Health Services***~~[Human Resources]~~, urban-county government, and any and all other sources, the commissioner shall prepare for board approval a budget setting forth the total amounts of funds available from all sources for expenditures during the board's fiscal year, and setting forth the estimated expenditures of the board for the fiscal year.

(5) The board shall install and maintain a system of accounting and shall file an annual report of its fiscal and other operations to the Cabinet for ***Health Services***~~[Human Resources]~~ and to the legislative body of the urban-county government after the close of the board's fiscal year. The annual report shall be accompanied by such information, tables, and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding year.

Section 368. KRS 212.660 is amended to read as follows:

(1) After the establishment of a city-county health department as provided in KRS 212.640, the city-county board of health shall appoint a health officer, subject to the approval of the Cabinet for ***Health Services***~~[Human Resources]~~. Other persons necessary for the work of the city-county health department shall be appointed in the same manner and subject to the same conditions as are other county health department employees.

(2) Any city health department employee who is covered by a pension fund for civil service employees, as authorized by KRS 90.400 or any other section of the Kentucky Revised Statutes, prior to the consolidation of the city-county health department, may elect to continue such coverage thereafter in lieu of electing coverage under the Kentucky Employees Retirement System, KRS 61.510 to 61.705; provided, however, that all new employees of such consolidated city-county health department shall thereafter be covered by the Kentucky Employees Retirement System.

Section 369. KRS 212.710 is amended to read as follows:

Any city-county department of health established under KRS 212.350 or 212.640 shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for ***Health Services***~~[Human Resources]~~ as provided in KRS 212.120.

Section 370. KRS 212.725 is amended to read as follows:

If, after the establishment of the public health taxing district, as provided in KRS 212.720, the tax levying authorities of the district, in the opinion of the county or city-county board of health, do not appropriate an amount sufficient to meet the public health needs of the county or the city-county health department or do not appropriate an amount sufficient to meet the standards prescribed by the Cabinet for ***Health Services***~~[Human Resources]~~ for health departments, the county or city-county board of health, acting as the governing body of the taxing district, shall with the approval of the Cabinet for ***Health Services***~~[Human Resources]~~, impose by resolution a special ad valorem public health tax in such amount that it deems sufficient, but not in excess of the maximum amount approved by the electorate as provided for in KRS 212.720. The fiscal court shall upon receipt of a duly certified copy of said resolution, include in the next county ad valorem tax levy said special public health tax imposed by the county or city-county board of health which shall be in addition to all other county ad valorem taxes. Said special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health to be used solely for the maintenance and operation of the county or city-county health department.

Section 371. KRS 212.755 is amended to read as follows:

(1) If, after the establishment of the public health taxing district as provided for in this section and KRS 212.750, the tax levying authorities of the district, in the opinion of the county or city-county board of health, do not appropriate an amount sufficient to meet the public health needs of the county or the city-county health department or do not appropriate an amount sufficient to meet the standards prescribed by the Cabinet for ***Health Services***~~[Human Resources]~~ for local health departments, the county or city-county board of health, acting as the governing body of the taxing district shall, with the approval of the Cabinet for ***Health Services***~~[Human Resources]~~, request the fiscal court to impose by resolution a special ad valorem public health tax in such amount that it deems sufficient, but not in excess of four cents ($0.04) per one hundred dollars ($100) of full value assessed valuation. The fiscal court may upon receipt of a duly certified copy of said resolution, include in the next county ad valorem tax levy said special public health tax imposed by the county or city-county board of health which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health to be used solely for the maintenance and operation of the county, city-county, or district health department and as provided in KRS 212.740.

(2) Public health taxing districts heretofore organized pursuant to the provisions of KRS 212.720 to 212.740 or organized pursuant to this section and KRS 212.750 shall not be subject to the provisions of the compensating tax rate as defined

by KRS 132.010 nor to Chapter 2, 1965 First Extraordinary Session of the General Assembly; provided, however, that no public health taxing district shall impose a rate higher than four cents ($0.04) per one hundred dollars ($100) of full value assessed valuation.

Section 372. KRS 212.780 is amended to read as follows:

As used in KRS 212.780 to 212.794 the following definitions shall apply:

(1) "Board" means independent district board of health as created in KRS 212.780 to 212.794***;***~~[.]~~

(2) "Cabinet" means Cabinet for ***Health Services;***~~[Human Resources.]~~

(3) "County board of health" means a local board of health as defined by KRS 212.640 or 212.020***;***~~[.]~~

(4) "Department" means independent district department of health created in KRS 212.780 to 212.794***;***~~[.]~~

(5) "Director" means the district director of health***;***~~[.]~~

(6) "District board of health" means the district board of health as established pursuant to KRS 212.810 to 212.930***;***~~[.]~~

(7) "District department of health" means the district department of health as established pursuant to KRS 212.810 to 212.930***;***~~[.]~~

(8) "Independent district board of health" means the independent district board of health as created in KRS 212.780 to 212.794***;***~~[.]~~

(9) "Judge/executive" means the county judge/executive of any county fiscal court as defined in KRS 67.700 to 67.710***; and***~~[.]~~

(10) "Metropolitan statistical area" (MSA) means metropolitan statistical area as defined by the United States Bureau of the Census, United States Department of Commerce.

Section 373. KRS 212.830 is amended to read as follows:

As used in 212.810 to 212.930, unless the content requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~; ***and***

(2) "Health officer" means the chief administrative officer of the district health department.

Section 374. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class, an urban-county government, or which are part of an interstate metropolitan statistical area where the Kentucky population of the metropolitan statistical area exceeded two hundred fifty thousand (250,000) people on July 1, 1989, a district board of health shall consist of the following members:

  (a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

  (b) One (1) additional resident member per county per fifteen thousand (15,000) population or fraction thereof, which shall include the mayor, city manager, or the designee of the city manager of each city of the second class as an ex officio voting member, except that the total number of members from any county in a district shall not exceed seven (7) members.

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the county or city-county boards of health from the membership of each county or city-county board of health.

  (a) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring.

  (b) Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county. At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the district board shall be doctors of medicine or osteopathy qualified, licensed, and practicing in the Commonwealth, and there shall be at least one (1) qualified, licensed, and practicing registered nurse, one (1) qualified, licensed, and practicing dentist, one (1) qualified licensed engineer engaged in the practice of civil or sanitary engineering, one (1) qualified, licensed, and practicing optometrist, and one (1) qualified, licensed, and practicing veterinarian, when available, among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

  (c) The chairman of the county or city-county board of health shall inform the secretary with forty-five (45) days of receipt of this notification of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the time the secretary has certified their eligibility to serve on the board.

(3) If a vacancy exists upon the district board, the vacancy shall be filled in a manner consistent with subsection (2) of this section, with the appointed member to fill the vacant seat coming from the county in which the vacancy occurs and the appointed member resides. If the term of a member on the county board of health expires or the member cannot complete

the term on the county board, the seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on December 31 or until their successors are appointed. The terms of the first appointments shall be staggered so that members whose terms expire on June 30, 1992, shall be replaced with appointed members whose terms expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall be replaced with appointed members whose terms expire on December 31, 1995.

(5) The secretary shall remove any appointed member who fails to attend three (3) consecutive scheduled meetings.

Section 375. KRS 212.870 is amended to read as follows:

(1) A district health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the cabinet all medical, administrative, technical, clerical, professional and other employees necessary for the maintenance and operation of the district health department in accordance with standards and merit system provisions prescribed by the cabinet.

(2) In the absence of a district health officer the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or his duly appointed representative shall serve as health officer for the district health department.

(3) All employees of county health departments which join a district health department shall become employees of the district health department.

Section 376. KRS 212.880 is amended to read as follows:

District health departments shall:

(1) Administer and enforce in the district, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~] and the rules and regulations of the district board of health;

(2) With the advice of the district board of health and the cabinet, formulate, promote, establish and execute policies, plans and programs to safeguard the health of the people; ***and***

(3) Make such statistical or other studies and reports relating to the activities of the cabinet as may be deemed expedient or as may be required by the district board of health or the cabinet.

Section 377. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this chapter for registration by the Office of Vital Statistics;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domicilary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after the expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the Office of Vital Statistics and the incorporation of vital records provided for in this chapter into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records

and the collection of other reports required by this chapter;

(12) "Secretary" means the secretary for ***health services***~~[human resources]~~;

(13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage, and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this chapter;

(17) "Commission" means the Commission for Children with Special Health Care Needs;

(18) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels; ***and***

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

Section 378. KRS 213.016 is amended to read as follows:

There shall be established in the Department for ***Public*** Health~~[Services]~~, Cabinet for ***Health Services***~~[Human Resources]~~, a vital statistics program which shall maintain and operate the only official system of vital statistics in the Commonwealth.

Section 379. KRS 213.021 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall adopt administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the provisions of this chapter.

Section 380. KRS 213.026 is amended to read as follows:

The secretary for ***health services***~~[human resources]~~ shall designate the state registrar of vital statistics, hereinafter referred to as "state registrar," in accordance with merit system laws and administrative regulations.

Section 381. KRS 213.036 is amended to read as follows:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall, upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for ***Health Services***~~[Human Resources]~~. The local registrar shall transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the state registrar. When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

Section 382. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for ***in this section and in KRS 213.051***~~[herein]~~, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth or the hearing risk certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written description of the rights and responsibilities of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) Require the voluntary acknowledgment of paternity obtained through the hospital based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment of paternity form shall be the only document having the same weight and authority as a judgment of paternity.

(5) The Cabinet for ***Health Services***~~[Human Resources]~~ shall:

(a) Provide to all public and private birthing hospitals in the state written materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 383. KRS 213.047 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall pay the sum of ten dollars ($10) to an institution for each completed affidavit of paternity form returned to the local registrar by the institution, pursuant to KRS 213.046, limited to the appropriated funds for the purpose of KRS 213.046.

Section 384. KRS 213.051 is amended to read as follows:

(1) The person who assumes the custody of a live-born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within ten (10) days to the Cabinet for ***Health Services***~~[Human Resources]~~ the following information:

(a) The date and place of finding;

(b) Sex, color or race, and approximate birth date of child;

(c) Name and address of the person or institution with which the child has been placed for care;

(d) Name given to the child by the custodian of the child; and

(e) Other data as required by the state registrar to complete a birth certificate.

(2) The place where the child was found shall be entered as the place of birth.

(3) A report registered under this section shall constitute the certificate of birth for the child.

(4) If the child is identified and a certificate of birth is found or obtained, the report registered under this section shall be placed in a special file and shall not be subject to inspection except upon order of a Circuit Court.

Section 385. KRS 213.066 is amended to read as follows:

(1) For each adoption decreed by a Circuit Court in the Commonwealth, the court shall require the preparation of a report of

adoption on a form prescribed and furnished by the state registrar. The report shall include the facts necessary to establish a new certificate of birth of the person adopted ***and***[~~,~~] identify the order of adoption, and be certified by the clerk of the court.

(2) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The Department for Social Services or any other agency or person having knowledge of the facts shall supply the court with the additional information necessary to complete the report. The provision of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(3) If an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the birth record.

(4) Not later than the fifteenth day of each calendar month or more frequently, the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulments of adoption, and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

(5) If the state registrar receives a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, the state registrar shall forward the report to the state registrar in the state of birth. If the birth occurred in a foreign country and the child was not a citizen of the United States at the time of birth, the state registrar shall prepare a record of foreign birth as provided by KRS 213.056(2). If the child was born in Canada, the state registrar shall also send a copy of the report of adoption, annulment of adoption, or amendment of a decree of adoption to the appropriate registration authority in that country.

Section 386. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in

which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification of death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for ***Health Services***[~~Human Resources~~] to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for ***Health Services***[~~Human Resources~~] and the local health department. The Cabinet for ***Health Services***[~~Human Resources~~] shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report of death form as prescribed by the Cabinet for ***Health Services***[~~Human Resources~~]. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for ***Public*** Health[~~ Services~~] deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Section 387. KRS 213.111 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 311.300 to 311.350, any hospital or institution of higher learning may make

application to any medical school incorporated within the Commonwealth for the loan of unclaimed whole dead bodies or parts thereof for educational or scientific purposes if the approval of the Cabinet for ***Health Services***[~~Human Resources~~] has first been obtained. Approval shall be granted or denied by the Cabinet for ***Health Services***[~~Human Resources~~] on the basis of proposed use, need, qualification of personnel, and adequacy of equipment and facilities.

(2) A special transit permit shall be obtained for the transportation of the dead bodies or parts thereof from the state registrar. Transportation and the ultimate burial of all the bodies or parts thereof shall be in accordance with the provisions of this chapter and KRS 311.340.

(3) All approved recipients shall keep a record of all bodies received by them and comply with all other regulations of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 388. KRS 213.116 is amended to read as follows:

(1) The cabinet shall perform the collection, indexing, tabulation, and registration of data relating to marriages, divorces, and annulments. The secretary shall adopt administrative regulations to carry out the provisions of this section.

(2) Each county clerk shall on or before the tenth day of each month furnish to the state registrar, from the marriage licenses issued and the marriage certificates returned to the clerk during the previous month, the information required by the Cabinet for ***Health Services***[~~Human Resources~~] upon forms prescribed and furnished by the cabinet. The county clerk shall collect from the applicants for a marriage license at the time the license is issued one dollar ($1), which shall constitute the clerk's fee for forwarding the required information to the state registrar.

(3) A marriage record not filed within the time prescribed by this section may be registered in accordance with administrative regulations adopted by the cabinet.

(4) In all actions for dissolution of marriage, the petitioner, or the petitioner's attorney or legal representative, shall file, concurrently with the petition, the information requested on forms prescribed and furnished by the Cabinet for ***Health Services***[~~Human Resources~~]. The provisions of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(5) Each Circuit Court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited, or annulment of marriage, complete the form prescribed and furnished by the Cabinet for ***Health Services***[~~Human Resources~~] and forward it to the state registrar.

Section 389. KRS 213.131 is amended to read as follows:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this chapter, by regulation, or by order of a court of competent jurisdiction. Administrative regulations adopted by the cabinet shall provide for adequate standards of security and confidentiality of vital records and shall conform to subsection (4) of this section.

(2) The state registrar shall prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request.

(3) The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request.

(4) The Cabinet for ***Health Services***[~~Human Resources~~] may authorize by regulation the disclosure of information contained in vital records for research and official administrative purposes, if:

  (a) All information identifying persons named on the certificate is withheld or removed;

  (b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

  (c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(5) If one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for continued safekeeping of the records.

Section 390. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed nine dollars ($9) to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for ***Health Services or the Cabinet for Families and Children***~~[Human Resources]~~ for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 391. KRS 213.161 is amended to read as follows:

(1) In order to obtain information which may be useful to research organizations studying the causes and incidence of the sudden infant death syndrome, a program is hereby established in the Cabinet for ***Health Services***~~[Human Resources]~~. The purpose of this program shall be to obtain factual information concerning the characteristics, incidence, and distribution of the sudden infant death syndrome throughout the Commonwealth and to provide a means of public education concerning any research findings which may lead to the possible means of prevention, early identification, and treatment of children susceptible to the sudden infant death syndrome.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause as determined by a physician or a coroner, an autopsy with the written approval of the parents or legal guardian of the child shall be performed within forty-eight (48) hours and the results reported to the cabinet and to the parents or legal guardian of the child.

(3) In order to implement the provisions of this section, the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall:

(a) Promulgate administrative regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths which is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution, and characteristics of cases of the sudden infant death syndrome;~~[and]~~

(b) Collect such factual information from physicians, coroners, medical examiners, hospitals, and public health officials who have examined any child known or believed to have the sudden infant death syndrome;~~[and]~~

(c) Make such factual information available to physicians, coroners, medical examiners, hospitals, public health officials, and educational and institutional organizations conducting research as to the causes and incidence of the sudden infant death syndrome;~~[and]~~

(d) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of the sudden infant death syndrome; and

(e) Conduct educational programs to inform the general public of any research findings of educational and institutional organizations which may lead to the possible means of prevention, early identification and treatment of the sudden infant death syndrome.

Section 392. KRS 214.010 is amended to read as follows:

Every physician shall report all diseases designated by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~ as reportable which are under his special treatment to the local board of health of his county, and every head of a family shall report any of said diseases, when known by him to exist in his family, to the local board or to some member thereof in accordance with the regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 393. KRS 214.020 is amended to read as follows:

When the Cabinet for ***Health Services***~~[human resources]~~ believes that there is a probability that any infectious or contagious disease will invade this state, it shall take such action and adopt and enforce such rules and regulations as it deems efficient in preventing the introduction or spread of such infectious or contagious disease or diseases within this state, and to accomplish these objects shall establish and strictly maintain quarantine and isolation at such places as it deems proper.

Section 394. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis and immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B,

and haemophilis influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for ***Health Services***~~[Human Resources]~~. Additional immunizations may be required by the Cabinet for ***Health Services***~~[Human Resources]~~ through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis tested, examined, and treated according to administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) Each child entering the public schools shall have proof of having been tested for tuberculosis prior to enrollment. Following the first year of school, upon an epidemiological determination made by the state or regional health officer in accordance with administrative regulations promulgated by the Cabinet for ***Health Services***~~[Human Resources]~~, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis tested, examined and treated according to administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) For each child cared for in a day care center, certified family child care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

(5) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day care centers, certified family child care homes, or other licensed facilities which care for children.

Section 395. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for ***Health Services***~~[Human Resources]~~ may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

Section 396. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or his designee. The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

Section 397. KRS 214.160 is amended to read as follows:

(1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for ***Health Services***~~[Human Resources]~~ or a laboratory approved by the cabinet, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall, as often as necessary, publish a list of the five (5) most

frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for ***Health Services***~~[Human Resources]~~, if the attending person has reason to believe based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for ***Health Services***~~[Human Resources]~~ is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

(6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.

Section 398. KRS 214.170 is amended to read as follows:

Every physician or other person who takes or causes to be taken from a woman in pregnancy, or suspected pregnancy, a blood specimen for serological tests for syphilis, shall identify the specimen as being from a pregnant woman submitting it for tests. The laboratory shall report the result of the test if reactive on forms prepared and furnished by the Cabinet for ***Health Services***~~[Human Resources]~~ to the Cabinet for ***Health Services***~~[Human Resources]~~ not later than one (1) week after the examination is made.

Section 399. KRS 214.175 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ may conduct periodic anonymous surveys to determine the prevalence within the Commonwealth of drug and alcohol use during pregnancy. These periodic surveys may include, but are not limited to, toxicology tests to determine the presence of alcohol, controlled substances, or other drugs which have not been prescribed due to medical necessity.

(2) All hospitals and any other health facilities licensed pursuant to KRS Chapter 216B which provide for obstetrical services, including delivery of newborn infants, shall, as a condition of licensure, participate in any periodic surveys conducted by the Cabinet for ***Health Services***~~[Human Resources]~~ for the purposes of determining the prevalence of alcohol or other substance abuse among pregnant women and newborn infants.

(3) Any surveys conducted pursuant to this section shall be conducted according to guidelines established by the Cabinet for ***Health Services***~~[Human Resources]~~. The toxicology test may be performed without a physician's order and without patient or parental consent. For the purpose of this section any toxicology test performed shall be considered medically necessary.

(4) The results of any individual toxicology tests performed pursuant to this section shall remain confidential and shall only be released to the Cabinet for ***Health Services***~~[Human Resources]~~. Any results shall be collected and compiled in aggregate form without the name of the hospital, patient, or other means of identifying the individual subject of the test.

(5) No test result obtained pursuant to this section shall be admissible in any court or other hearing as evidence in any proceeding, criminal or civil, against the individual subject of the test.

(6) No hospital shall incur any liability, except for negligence, for performing any test required or authorized under KRS 214.160 and 214.175 or for reporting the result of the test pursuant to any administrative regulation promulgated by the Cabinet for ***Health Services***~~[Human Resources]~~ under KRS Chapter 13A in accordance with this section.

(7) The cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 400. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health care services, there is no requirement that a health care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person, who has obtained or has knowledge of a test result pursuant to this section, shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312 or 313 to register with the cabinet if he does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop a program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 401. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, alcohol or other drug abuse or addiction and may advise, prescribe for and treat such minor regarding venereal disease, alcohol and other drug abuse or addiction, contraception, pregnancy or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

(2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.

(3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.

(4) Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

(5) The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.

(6) The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.

(7) Except as otherwise provided in this section, parents, the Cabinet for ***Health Services***~~[Human Resources]~~, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

Section 402. KRS 214.310 is amended to read as follows:

(1) Any police officer or member of any municipal board of health, or other city official, who has reason to believe that the provisions of KRS 214.280 to 214.300 have been or are being violated, shall give notice to the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) Any individual who has reason to believe that the provisions of KRS 214.280 to 214.300 have been or are being violated may present the relevant facts to the board of health or any of its deputies. It shall then be the duty of the board of health to make an investigation of the facts, and if the board is of the opinion that there is or has been a violation it shall prosecute the person guilty thereof.

(3) Any individual may institute proceedings to enforce KRS 214.280 to 214.300 and to punish violations of their provisions.

Section 403. KRS 214.410 is amended to read as follows:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~; and

(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, nongonococcal urethritis, mucopurulent cervicitis, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, chlamydia trachomatis infections and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

Section 404. KRS 214.420 is amended to read as follows:

(1) The General Assembly hereby declares that confidentiality is essential for the proper administration and operation of sexually transmitted disease control activities in this state and that the principle of confidentiality must remain inviolate.

(2) All information, records and reports in the possession of local health departments or the Cabinet for ***Health Services***~~[Human Resources]~~ and which concern persons infected with or suspected of being infected with or tested for or identified in an epidemiologic investigation for sexually transmitted disease are hereby declared to be strictly confidential and only personnel of local health departments and the Cabinet for ***Health Services***~~[Human Resources]~~ who are assigned to sexually transmitted disease control activities shall have access to such information, records and reports.

(3) Nothing in this section shall be construed as preventing:

(a) The release of medical information to the physician retained by the person infected with or suspected of being infected with a sexually transmitted disease;

(b) The release of medical or epidemiological data or information for statistical purposes in a manner so that no individual person can be identified;

(c) The release of medical information with the written consent of all persons identified in the information to be released;

(d) The release of medical or epidemiological information necessary to enforce the provision of the rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~, issued pursuant to KRS Chapter 13A, relating to the control and treatment of sexually transmitted disease; and

(e) The release of medical information made to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.

Section 405. KRS 214.452 is amended to read as follows:

The following policies shall apply to blood establishments and to donors of blood:

(1) All blood establishments within the Commonwealth shall be licensed by the United States Food and Drug Administration and remain in compliance with all applicable federal regulations. The Cabinet for ***Health Services***~~[Human Resources]~~ shall, under administrative regulations promulgated pursuant to KRS Chapter 13A, establish fees necessary to cover the cost of and adhere to a schedule for regular inspection, by the Office of the Inspector General of the Cabinet for ***Health Services***~~[Human Resources]~~, of all blood establishments within the Commonwealth to ascertain whether each blood establishment is licensed and in compliance with KRS 214.450 to 214.464 and KRS 214.468. The Office of the Inspector General shall commence its inspection program of blood establishments no later than September 1, 1994. The Office of the Inspector General of the Cabinet for ***Health Services***~~[Human Resources]~~ shall annually, by no later than September 1, submit a written report to the Interim Joint Committee on Health and Welfare on the compliance of blood establishments with KRS 214.450 to 214.464 and KRS 214.468.

(2) All blood establishments shall test blood for the human immunodeficiency virus and for any known causative agent for any blood-borne communicable disease, using tests approved and required, for purposes of blood donation, by the United States Food and Drug Administration.

(3) It shall be the duty of the administrator of any blood establishment which collects blood for the purpose of distributing to another health service, health facility, or health care provider the blood for transfusion to:

(a) Secure donor consent and a signed written risk factor history and donor consent form for each potential paid or volunteer donor for the purpose of determining if the potential donor is at high risk for infection with the human immunodeficiency virus, or has tested confirmatory positive for infection with the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has tested confirmatory positive for infection with any causative agent for acquired immune deficiency syndrome recognized by the United States Centers for Disease Control; or has a blood-borne communicable disease;

(b) Provide a means for a potential donor to self-elect not to donate blood;

(c) Refuse donation or sale of blood by persons at high risk for infection with the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have tested confirmatory positive for infection with the human immunodeficiency virus, or who have a blood-borne communicable disease;

(d) Post a sign in the blood establishment which is visible to all potential donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested confirmatory positive for infection with the human immunodeficiency virus (HIV), or who have a blood-borne communicable disease or who have one (1) or more risk factors for the human immunodeficiency virus as determined by the United States Centers for Disease Control, are prohibited by law from donating or selling blood. Persons violating the law are guilty of a Class D felony. ASK STAFF OF THIS BLOOD ESTABLISHMENT."

(4) The provisions of this section shall not be construed to impose requirements which are in conflict with donor eligibility requirements set out in United States Food and Drug Administration or American Association of Blood Banks standards.

Section 406. KRS 214.464 is amended to read as follows:

(1) (a) Untested blood may be transfused only in an emergency situation in which the attending physician determines a patient is in imminent danger of death or serious physical injury and no tested and labeled blood as set forth under KRS 214.458 is readily available to alleviate the emergency situation; provided, however, that the attending physician shall, obtain specific prior consent for the transfusion from the patient in the emergency situation or if the patient's condition renders the patient incapable of giving consent, seek from the next of kin of the patient, if available, prior informed consent to transfuse any untested blood. For purposes of this section, the patient's "next of kin" means, in the following order;

1. The spouse of the patient;
2. If there is none, then the mother or father of the patient;
3. If there is none, then any adult son or daughter of the patient; or
4. If there is none, then any brother or sister of the patient.

(b) Physical evidence of consent shall become a part of the patient's permanent medical record.

(2) Blood establishments may release untested blood, collected under standards set forth in KRS 214.452, at the request of a physician, or health facility, or health service in an emergency as provided under this section. If blood has not been tested, the test shall be performed as soon after the transfusion as possible. If the blood subsequently tests positive for any blood-borne communicable disease, the patient's attending physician shall be immediately notified. The attending physician shall, in turn, notify the patient of the test results. The patient or next of kin shall indicate notification of receipt of the test results and any offer of treatment or referral to another health care provider on a form provided by the health facility or health service and approved by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 407. KRS 214.550 is amended to read as follows:

As used in KRS 214.552 to 214.556:

(1) "Department" means the Department for ***Public*** Health[~~ Services~~] of the Cabinet for ***Health Services***[~~Human Resources~~].

(2) "Fund" means the breast cancer screening fund.

(3) "Screening" means the conduct of screening mammography for the purpose of ascertaining the existence of any physiological abnormality which might be indicative of the presence of disease.

Section 408. KRS 214.554 is amended to read as follows:

(1) There is[~~ hereby~~] established within the department a Breast Cancer Screening Program for the purposes of:

(a) Reducing morbidity and mortality from breast cancer in women through early detection and treatment; and

(b) Making breast cancer screening services of high quality and reasonable cost available to women of all income levels throughout the Commonwealth and to women whose economic circumstances or geographic location limits access to breast cancer screening facilities.

(2) Services provided under the Breast Cancer Screening Program may be undertaken by private contract for services or operated by the department and may include the purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening. The program may also provide referral services for the benefit of women for whom further examination or treatment is indicated by the breast cancer screening.

(3) The department may adopt a schedule of income-based fees to be charged for the breast cancer screening. The schedule shall be determined to make screening available to the largest possible number of women throughout the Commonwealth. The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under KRS 214.552 to 214.556 and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.

(4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of KRS 214.552 to 214.556.

(5) For the purpose of developing and monitoring the implementation of guidelines for access to and the quality of the services of the Breast Cancer Screening Program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for ***Public*** Health[~~ Services~~] which shall include the directors of the James Graham

Brown Cancer Center and the Lucille Parker Markey Cancer Center, the director of the Kentucky Cancer Registry, one (1) representative of the Kentucky Office of Rural Health appointed by the Governor, one (1) representative of the Kentucky Commission on Women appointed by the Governor, and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.

(6) The commissioner of the Department for ***Public*** Health[~~ Services~~], in consultation with the Breast Cancer Advisory Committee, shall annually, but no later than July 1 of each year, make a report to the Governor, the Legislative Research Commission, and the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare on the:

(a) Implementation and outcome from the Breast Cancer Screening Program including, by geographic region, numbers of persons screened, numbers of cancers detected, referrals for treatment, and reductions in breast cancer morbidity and mortality;

(b) Development of quality assurance guidelines, including timetables, for breast cancer screening under this section, and monitoring of the manner and effect of implementation of those guidelines; and

(c) Funds appropriated, received, and spent for breast cancer control by fiscal year.

Section 409. KRS 214.556 is amended to read as follows:

(1) There is hereby established within the Kentucky cancer program the Kentucky Cancer Registry and the cancer patient data management system for the purpose of providing accurate and up-to-date information about cancer in Kentucky and facilitating the evaluation and improvement of cancer prevention, screening, diagnosis, therapy, rehabilitation, and community care activities for citizens of the Commonwealth. The cancer patient data management system shall be administered by the Lucille Parker Markey Cancer Center.

(2) Each licensed health facility which provides diagnostic services, or diagnostic services and treatment, or treatment to cancer patients shall report to the Kentucky Cancer Registry, through the cancer patient data management system and in a format prescribed by the Kentucky Cancer Registry, each case of cancer seen at that health facility. Failure to comply may be cause for assessment of an administrative fine for the health facility, the same as for violation of KRS 216B.250.

(3) Each health facility shall grant to the cancer registry access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or status of any identified cancer patient. Hospitals actively participating and enrolled in the cancer patient data management system of the Kentucky Cancer Program as of July 13, 1990, shall be considered to be in compliance with this section. The Lucille Parker Markey Cancer Center shall provide staff assistance in compiling and reporting required information to hospitals which treat a low volume of patients.

(4) No liability of any kind or character for damages or other relief shall arise or be enforced against any licensed health facility by reason of having provided the information or material to the Kentucky Cancer Registry pursuant to the requirements of this section.

(5) The identity of any person whose condition or treatment has been reported to the Kentucky Cancer Registry shall be confidential, except that:

(a) The Kentucky Cancer Registry may exchange patient-specific data with any other cancer control agency or clinical facility for the purpose of obtaining information necessary to complete a case record, but the agency or clinical facility shall not further disclose such personal data; and

(b) The Kentucky Cancer Registry may contact individual patients if necessary to obtain follow-up information which is not available from the health facility.

(6) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section and any findings or conclusions resulting from those studies shall be privileged.

(7) The Kentucky Cancer Registry shall make periodic reports of its data and any related findings and recommendations to the Legislative Research Commission, the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare, the Governor, the Cabinet for ***Health Services***[~~Human Resources~~], the reporting health facility and other appropriate governmental and nongovernmental cancer control agencies whose intent it is to reduce the incidence, morbidity, and mortality of cancer. The Kentucky Cancer Registry may conduct analyses and studies as are indicated to advance cancer control in the Commonwealth.

Section 410. KRS 214.605 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall establish a program to educate the public about the threat of acquired immunodeficiency syndrome.

(2) The Acquired Immunodeficiency Syndrome Education Program shall:

(a) Be designed to reach all segments of the Commonwealth's population;

(b) Contain special components designed to reach minority groups within the state;

(c) Impart knowledge to the public about methods of transmission of acquired immunodeficiency syndrome and methods of prevention;

(d) Educate the public about transmission risks in social, employment, and educational situations;

(e) Educate health care workers and health facilities' employees about methods of transmission and prevention in their unique workplace environments;

(f) Contain special components designed to reach persons who may frequently engage in behaviors placing them at a high risk for acquiring acquired immunodeficiency syndrome;

(g) Provide information and consultation to state agencies to educate all state employees;

(h) Provide information and consultation to state and local agencies to educate law enforcement and correctional personnel and inmates;

(i) Provide information and consultation to local governments to educate local government employees;

(j) Make information available to private employers and encourage them to distribute this information to their employees; and

(k) Contain special components which emphasize appropriate behavior and attitude change.

(3) The program designed by the Cabinet for ***Health Services***~~[Human Resources]~~ shall utilize all appropriate forms of the media and shall identify sources of educational materials that can be used by businesses, schools, and health care providers in the regular course of their business.

(4) The department may contract with other persons in the design, development, and distribution of the components of the education program.

Section 411. KRS 214.610 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall approve appropriate educational courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335 and emergency medical technicians licensed pursuant to KRS Chapter 211.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 412. KRS 214.620 is amended to read as follows:

(1) The boards of the professions in KRS 311.450, 311.571, 311.601, 312.085, 312.175, 313.040, 313.080, 313.290, 313.305, 314.041, 314.042, 314.051, 314.073, 315.050, 315.065, 320.250, 320.280, 327.050, 333.100, 333.190, 335.080, 335.090, 335.100, and 335.150, and the Cabinet for ***Health Services***~~[Human Resources]~~ shall begin planning for the implementation of those sections listed above which require, as a part of initial licensure, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of those sections listed above and shall also include developing administrative regulations for the implementation of the licensure requirements.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall develop instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for ***Health Services***~~[Human Resources]~~ shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.

(3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees of health facilities defined in KRS 216B.015 shall have completed an educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change except for those employees who shall have completed such a course as required for their professional licensure or upon evidence that the employee received such a course from another health facility where the employee was previously employed.

(4) Information on the human immunodeficiency virus infection shall be presented to any person who receives treatment at any hospital, however named, skilled nursing facilities, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, and emergency care centers licensed pursuant to KRS Chapter 216B. The information shall include, but not be limited to, methods of transmission and prevention and appropriate behavior and attitude change.

Section 413. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests, is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health care services, there is no requirement that a health care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person, who has obtained or has knowledge of a test result pursuant to this section, shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;

10. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312 or 313 to register with the cabinet if he does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop a program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 414. KRS 214.990 is amended to read as follows:

(1) Every head of a family who willfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be guilty of a violation for each day he neglects or refuses to report. Repeated failure to report is sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the Cabinet for ***Health Services***~~[Human Resources]~~ under KRS 214.020 shall be guilty of a Class B misdemeanor.

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be guilty of a violation.

(4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be guilty of a Class A misdemeanor.

(5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be guilty of a Class B misdemeanor.

(6) Any person who violates any provision of KRS 214.420 shall be guilty of a violation. Each violation shall constitute a separate offense.

(7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

Section 415. KRS 215.520 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall discharge all duties relating to all matters of tuberculosis control, including, but not limited to, the following:

(1) The facilitation of appropriate clinical services for either recalcitrant or drug resistant persons with active tuberculosis for which failure to provide services will lead to further spread of disease in the Commonwealth;

(2) The promulgation of administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the directives of this section, KRS 215.540, 215.550, 215.560, 215.570, 215.580, 215.590, and 215.600;

(3) The maintenance of a central register of all known cases of tuberculosis in the Commonwealth, and local registers as desirable, and the collection, collation, analysis, and publication of statistics and other information;

(4) The facilitation of tuberculosis programs in cooperation with the Department of Corrections, Department of Education, and other state agencies within their respective jurisdictions;

(5) The establishment within the Cabinet for ***Health Services***~~[Human Resources]~~ of appropriate social service and financial responsibility appraisal methods to insure that tuberculosis patients or suspects receive all possible support from third-party payors, or from the Medical Assistance Program. The Cabinet for ***Health Services***~~[Human Resources]~~ may contract

for services for persons with tuberculosis, either directly or through local health departments, and may pay the rates it deems necessary as a charge against the tuberculosis control funds of the Commonwealth;

(6) The dissemination of educational materials to the citizens of the Commonwealth regarding tuberculosis and its control;

(7) The initiation of special programs and demonstrations in cooperation with agencies of the federal government, universities, voluntary agencies, and other individuals or corporations;

(8) The provision of direct assistance to local health departments, to other agencies of state government, and to other organizations to assist them in carrying out education, prevention, and treatment programs of tuberculosis control; and

(9) Except as otherwise provided by law, to do all other things reasonably necessary to carry out the intent of this section and KRS 215.540 to 215.600.

Section 416. KRS 215.590 is amended to read as follows:

(1) A health service or health facility required to be licensed pursuant to KRS Chapter 216B or KRS Chapter 333, a health provider required to be licensed pursuant to KRS Chapters 311, 312, 313, 314, 315, or 320, or any other person who has knowledge of a person who has active tuberculosis, shall report the case to the local health department in accordance with the administrative regulations of the Cabinet for ***Health Services***[~~Human Resources~~] promulgated pursuant to KRS Chapter 13A.

(2) Physicians, hospitals, laboratories, or other institutions which perform related drug susceptibility tests on tubercle bacilli shall report the results of the testing to the local health department in accordance with the administrative regulations of the Cabinet for ***Health Services***[~~Human Resources~~] promulgated pursuant to KRS Chapter 13A. All reports of drug-resistant tubercle bacilli shall be made regardless of previous reports.

(3) No legal action shall lie against any physician, hospital employee, laboratory employee, or other person who, in good faith, reports a case of tuberculosis or the isolation of the tubercle bacillus as provided in this section, KRS 215.511, 215.520, 215.531, 215.540, 215.550, 215.560, 215.570, 215.580, and 215.600.

Section 417. KRS 216.2920 is amended to read as follows:

As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization***;***[~~.~~]

(2) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory facility-based physicians shall be excluded from the calculation of charge***;***[~~.~~]

(3) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility***;***[~~.~~]

(4) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic, procedures performed by a provider, as periodically determined by the cabinet in administrative regulations promulgated pursuant to KRS Chapter 13A as those for which reports to the cabinet shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as periodically determined by the cabinet***;***[~~.~~]

(5) "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes***; and***[~~.~~]

(6) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 418. KRS 216.2921 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall collect, pursuant to KRS 216.2925, analyze, and disseminate information on the cost, quality, and outcomes of health services provided by health facilities and health care providers in the Commonwealth.

(2) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall serve as chief administrative officer for the health data collection functions of KRS 216.2920 to 216.2929.

(3) Neither the secretary nor any employee of the cabinet shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of under KRS 216.2920 to 216.2929.

Section 419. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet

by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report, on a periodic basis, which may include quarterly reporting, information regarding the charge for and quality of the procedures and health care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. The cabinet shall rely on data from readily-available reports and statistics whenever possible.

(2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which charge and quality data shall be collected and published at specified time intervals and in a specified manner;

(b) A timetable for filing data, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection;

(c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;

(d) An acceptable format for data submission which shall include use of the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or in the form of hard copy;

(e) Procedures to allow health care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The cabinet shall coordinate its data-gathering activities with other data-collection activities conducted by the Department of Insurance, as well as other state agencies which collect health-related service, utilization, financial, and health care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

(4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health care charges and quality.

(5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.

(7) The Cabinet for ***Health Services***[~~Human Resources~~] shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135.

Section 420. KRS 216.2929 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall at least annually, on or before July 1, prepare and publish, in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons, a report or reports on health care charges, quality, and outcomes which includes diagnosis-specific or procedure-specific comparisons for each hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.

(2) The cabinet shall at least annually, on or before October 1, submit to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.

(3) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, to the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare and to the Governor on matters pertaining to comparative health care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health care costs, and any recommendations regarding its data collection and dissemination activities.

(4) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

Section 421. KRS 216.313 is amended to read as follows:

As used in KRS 216.310 to 216.360:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care, for more than twenty-four (24) hours, of two (2) or more nonrelated individuals suffering from illness, disease, injury, deformity, or a place including nursing and convalescent homes and all institutions for the care of the sick, devoted primarily to providing, for more than twenty-four (24) hours, obstetrical or other medical or nursing care for two (2) or more nonrelated individuals;

(2) "District" means hospital district;

(3) "Board" means the governing body of a hospital district;

(4) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~human resources~~] or his designee; and

(5) "Medical service area" means the geographic territory from which patients come or are expected to come to existing or proposed health facilities as defined by the Cabinet for ***Health Services***[~~human resources~~].

Section 422. KRS 216.315 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall, in addition to his other duties, act as secretary of hospital districts, and is vested with jurisdiction, power, and authority, when the conditions set forth in KRS 216.317 exist, to establish a hospital district within a medical service area as established by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 423. KRS 216.347 is amended to read as follows:

Within sixty (60) days after the close of each fiscal year the board shall make a written report to the secretary. A copy of this report shall be filed with the county clerk of each county within the district. The report shall contain:

(1) An itemized statement of the various sums of money received for the district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;

(4) A statement of the character of hospital services furnished to the district during the fiscal year; and

(5) Any other statistics or information requested by the Cabinet for ***Health Services***[~~ Human Resources~~].

Section 424. KRS 216.380 is amended to read as follows:

(1) The licensure category of rural primary-care hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a rural primary-care hospital without first obtaining a license from the Cabinet for ***Health Services***[~~Human Resources~~]. An acute-care hospital converting to a rural primary-care hospital shall not require a certificate of need. New construction of a rural primary-care hospital shall require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a rural primary-care hospital. No new rural primary-care hospital facilities shall be constructed before July 15, 1994.

(3) Only a hospital licensed as a general acute-care hospital may be relicensed as a rural primary-care hospital if all of the following criteria are met:

  (a) The facility is located at least twenty (20) miles, via road that is paved year-round, from the nearest licensed acute-care hospital providing twenty-four (24) hour emergency care;

  (b) The facility has sixty (60) or fewer beds; and

  (c) The facility is not in a county which is part of a standard metropolitan statistical area.

(4) A rural primary-care hospital shall provide the following services:

  (a) Twenty-four (24) hour emergency-room care with at least one (1) individual present who has completed certification and maintained competency in advanced cardiac and trauma life support, and a physician or physician extender on call.

  (b) At least six (6) acute-care beds which shall be used for observation and treatment of acute-care conditions designated by the Cabinet for ***Health Services***[~~Human Resources~~]. In no case shall patients remain in a rural primary-care hospital for more than ninety-six (96) hours; and

(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on an off-site contractual basis but shall be available twenty-four (24) hours per day.

(5) A rural primary-care hospital may provide the following services:

(a) Swing beds or a distinct nursing facility, but only if there is not a bed available in any nursing facility, intermediate care facility, or skilled nursing facility within the county of residence of the patient or of the hospital, or the patient has been refused admission to the nursing facility, intermediate care facility, or skilled nursing facility;

(b) Surgery with the limits of the ninety-six (96) hour length of stay and designated conditions;

(c) Normal obstetrics within the limits of the ninety-six (96) hour length of stay;

(d) Primary care;

(e) Adult day health care;

(f) Respite care; and

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis.

(6) The following staffing plan shall apply to a rural primary-care hospital:

(a) The medical staff shall have at least one (1) physician who shall serve as a medical director; and

(b) Physician extenders may treat patients within the limits of their statutory scope of practice. Physician extenders shall be supervised by a physician who is not required to be on site at all times. When the facility is occupied by a patient, a physician shall be on call within one-half (1/2) hour.

(7) A rural primary-care hospital shall have a written quality-assurance program. Quality assurance may be provided through a contractual arrangement.

(8) A rural primary-care hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the rural primary-care hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(9) An application for licensure as a rural primary-care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for ***Health Services***~~[Human Resources]~~. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other services available or the lack thereof in the service area of the applicant.

(10) The Cabinet for ***Health Services***~~[Human Resources]~~ shall seek a federal Medicaid waiver to permit cost-based reimbursement of services provided to Medicaid recipients in a rural primary-care hospital.

(11) The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

Section 425. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for ***Health Services***~~[Human Resources]~~ to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Public Law 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 426. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal

file.

(2) Before admission to a long-term care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or his guardian is responsible for paying. The resident and the responsible party or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible party or family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multibed rooms and in tub, shower, and toilet rooms.

(16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully

informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for ***Health Services***~~[Human Resources]~~.

(24) Each resident and the responsible party or his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Section 427. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term care facility shall develop and implement a mechanism which will allow each resident and the responsible party or his responsible family member or his guardian to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and the responsible party or his responsible family member or his guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the cabinet.

(4) Every long-term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in KRS 216.515 to 216.525.

(5) All long-term care facilities shall maintain in their facilities one (1) copy of the most recent inspection report as prepared by the Cabinet for ***Health Services***~~[Human Resources]~~. The cabinet shall provide all long-term care facilities with one (1) copy of the most recent inspection report.

Section 428. KRS 216.535 is amended to read as follows:

As used in KRS 216.537 to 216.590:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for ***Health Services***~~[Human Resources]~~ to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Public Law 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) "Resident" means any person admitted to a long-term care facility as defined by this section.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~.

(6) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities.

(7) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.

Section 429. KRS 216.541 is amended to read as follows:

(1) Willful interference, as defined in KRS 216.535, with representatives of the Office of the Long-Term Care Ombudsman in the lawful performance of official duties, as set forth in the Older American's Act, 42 U.S.C. Section 3001 et seq., shall be unlawful.

(2) Retaliation and reprisals by a long-term care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.

(3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars ($100) to five hundred dollars ($500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the Division of Aging Services.

(4) The Cabinet for ***Families and Children***[~~Human Resources~~] shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 430. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for ***Public*** Health[~~ Services~~]; the commissioner of the Department for Social Services; the commissioner of the Department for Social Insurance; the inspector general; the director of the Division for Licensing and Regulation; the director of the Division for Aging Services; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 431. KRS 216.593 is amended to read as follows:

The provisions of KRS 12.028 and ***subsection (1) of Section 5 of this Act***[~~194.040(1)~~] shall not apply to KRS 216.537 to 216.590.

Section 432. KRS 216.750 is amended to read as follows:

As used in KRS 216.750 to 216.780:

(1) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provides nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care;

(2) "Personal care home" means a place devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board and laundry;

(3) "Fund" means the Nursing Home and Personal Care Home Loan Fund; ***and***

(4) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 433. KRS 216.760 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall be responsible for promotion of interest in the development of additional facilities for the housing and care of the elderly, and for providing consultative and technical assistance to public and private groups engaged in the development of such facilities. The cabinet's functions shall include but not be limited to:

(1) Promotion of local and community interest in the problem of housing and care for the elderly.

(2) Assisting local housing commissions in the development of low-rent housing projects for the elderly.

(3) Provision of information as to need for facilities in particular areas or locations.

(4) Provision of advice and assistance in the planning of facilities as to area to be served, size, type, staffing, operation and maintenance.

(5) Provision of information as to the availability of federal financial assistance and the procedures which should be followed in applying for such assistance.

(6) Provision of information as to the availability of state financial assistance and the procedures which should be followed in applying for such assistance.

(7) Provision of information as to the availability of private financial assistance.

(8) Provision of information as to licensing requirements of the state or its political subdivisions.

Section 434. KRS 216.787 is amended to read as follows:

(1) No agency providing services to senior citizens which are funded by the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~] shall employ persons in a position which involves providing direct

services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.

(2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.

(3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 435. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer to the applicant for initial employment in a nursing facility or in a position funded by the Department for Social Services of the Cabinet for ***Families and Children***~~[Human Resources]~~ and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request and shall not exceed five dollars ($5) per application.

Section 436. KRS 216.800 is amended to read as follows:

As used in KRS 216.800 to 216.853 unless the context requires otherwise:

(1) "Agreement" means a written contract between the authority and any city, county, or other political subdivision of the Commonwealth or any combination thereof, providing for the construction and financing and operation of one or more projects of the authority;

(2) "Authority" means the Kentucky Health and Geriatric Authority, a body corporate and politic created by KRS 216.800 to 216.853;

(3) "Bonds" means revenue bonds, notes or other obligations either in original or refunded form issued under the provisions of KRS 216.800 to 216.853;

(4) "Cost" means the expenditures for construction, acquisition of land, rights-of-way, property, rights, easements and interest acquired for such construction, demolishing or removing any buildings or structures on land so acquired, all machinery and equipment, financing charges, interest prior to and during construction, engineering and legal expenses, plans, specifications, surveys, cost and revenue estimates, other expenses necessary or incident to determining the feasibility or practicability of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of a project, the financing of such construction and the placing of the project into operation. Any expense heretofore incurred by the cabinet on projects of the authority may be reimbursed to it from the proceeds of revenue bonds of the authority;

(5) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(6) "Lease" means a written lease made by the authority as lessor and the cabinet, federal government, city, county, or other political subdivision of the Commonwealth or any combination thereof;

(7) "Owner" means all individuals, partnerships, associations, or corporations having any title or interest in any property, rights, easements or interest authorized by KRS 216.800 to 216.853 to be acquired; ***and***

(8) "Project" means any building, facility, equipment or structure which the authority may deem necessary for the promotion of the health of the residents of the Commonwealth including, but not limited to, hospitals, geriatric centers, appropriately designed housing for the elderly, medical clinics, rehabilitation centers, diagnostic centers, extended care centers and such other facilities as are related to the care, research and treatment of disease, and all property, rights, easements and interest which may be acquired by the authority for the construction and operation of the project.

Section 437. KRS 216.803 is amended to read as follows:

(1) The Kentucky Health and Geriatric Authority shall be composed of five (5) members who shall be the Governor, secretary for ***health services***~~[human resources]~~ or his designee, commissioner of ***public***~~[health services]~~, Attorney General, and the secretary of revenue. These five (5) persons and their successors in office are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of the "Kentucky Health and Geriatric Authority," with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, to have and use a corporate seal, and to exercise, in addition to the powers and functions conferred by KRS 216.800 to 216.853, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Three (3) members of the authority shall constitute a quorum for the transaction of business. The Governor shall be the

chairman of the authority and the secretary for ***health services***[~~human resources~~] or his designee shall be the vice chairman. The authority shall elect a secretary and a treasurer who shall serve at the pleasure of the authority and receive such compensation as may be determined by the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the authority. The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection.

Section 438. KRS 216.860 is amended to read as follows:

As used in KRS 216.865:

(1) "Division" means the Division of Licensing and Regulation within the Cabinet for ***Health Services***[~~Human Resources~~]***;***[~~.~~]

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~]***;***[~~.~~]

(3) "Secretary" means the secretary for ***health services; and***[~~human resources.~~]

(4) "Nursing pools" means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for medical personnel including, but not limited to, nurses, nursing assistants, nurses' aides, and orderlies. For purposes of KRS 216.865, nursing registries shall be considered to be nursing pools. Excluded from this definition are any health-facility-based or in-house pools established to provide services within the confines of such facility or business, any person who only engages in providing his or her own services on a temporary basis to health care facilities, and home health agencies licensed pursuant to KRS Chapter 216 which provide or procure temporary employment in health care facilities for medical personnel.

Section 439. KRS 216.875 is amended to read as follows:

As used in KRS 216.880 to 216.890 the following definitions shall apply:

(1) "Prescribed pediatric extended care center" hereinafter referred to as a "PPEC center," means any building or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the day, basic services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, marriage, or adoption and who require such services***;***[~~.~~]

(2) "Basic services" include, but are not limited to, development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with the parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically dependent child served as well as the caregiver training needs of the child's legal guardian***;***[~~.~~]

(3) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(4) "Owner or operator" means any individual who has general administrative charge of a PPEC center***;***[~~.~~]

(5) "Medical records" mean medical records maintained in accordance with accepted professional standards and practices as specified in the administrative regulations***;***[~~.~~]

(6) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse***; and***[~~.~~]

(7) "Supportive services or contracted services" include, but are not limited to, speech therapy, occupational therapy, physical therapy, social work, developmental, child life, and psychological services.

Section 440. KRS 216.885 is amended to read as follows:

(1) It is unlawful to operate or maintain a PPEC center without first obtaining a certificate of need from the Kentucky Health Policy Board and a license for the PPEC center from the cabinet. The cabinet is responsible for licensing PPEC centers in accordance with the provisions of KRS Chapter 216B.

(2) Separate licenses are required for PPEC centers maintained on separate premises, even though they are operated under the same management. Separate licenses are not required for separate buildings on the same grounds.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] may deny, revoke, modify, or suspend a license in accordance with KRS 216B.105.

Section 441. KRS 216.890 is amended to read as follows:

(1) On or before July 1, 1989, the Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations to implement the provisions of KRS 216.875 to 216.890, which shall include reasonable and fair standards. Such standards shall relate to:

  (a) The assurance that PPEC services are family centered and provide individualized medical, developmental, and family training services;

(b) The maintenance of PPEC centers based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served;

(c) The appropriate provisions of the "Life Safety Code" (NFPA-101, 1985 edition);

(d) The number and qualifications of all personnel who have responsibility for the care of the children served;

(e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of children served;

(f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's legal guardians;

(g) Supportive, contracted, other operational, and transportation services; and,

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs to be maintained in the facility for inspection by the cabinet.

(2) Enforcement of standards pursuant to the adoption of administrative regulations under KRS 216.875 to 216.890 shall not take effect until six (6) months after the adoption of such administrative regulations.

Section 442. KRS 216.905 is amended to read as follows:

It shall be unlawful to operate or maintain a network without first obtaining a license from the Cabinet for ***Health Services***[~~Human Resources~~]. A network shall not require a certificate of need.

Section 443. KRS 216.910 is amended to read as follows:

(1) Any licensed network shall be permitted to establish one (1) extension site per full-time physician on the staff of the network. Extension sites shall not be required to have a separate license but shall conform to administrative regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] and shall be inspected on a regular basis.

(2) Each network shall establish protocols for the treatment of the twenty (20) most common patient problems. At a minimum, the protocols shall identify for each problem a working definition, patient symptoms, diagnostic techniques, acceptable values for laboratory findings, conditions under which a physician shall be consulted, and treatment methods. These protocols shall be approved by the board. The protocols shall be listed in a handbook provided to each midlevel health care practitioner and shall be available to patients upon request.

(3) Each network shall have a system of patient and family medical records which employs the problem-oriented medical record format.

(4) A network shall employ a primary care physician who has admitting privileges at a local hospital. The network shall hire ancillary personnel as necessary to provide the basic services of the network. The network may hire midlevel health care practitioners to assist the physician but there shall be one (1) physician on staff for each midlevel health care practitioner.

(5) A physician shall see each patient for whom services are provided by a midlevel health care practitioner not less than twice a year. A medical chart auditor shall review the medical record entries for each patient encounter on the day of the encounter and will refer to the physician immediately any deviation from protocol.

(6) Each network shall develop a quality assurance program which shall be approved by the board. At a minimum, the quality assurance program shall address:

(a) Program goals and objectives;

(b) Program organization, including identification of responsible parties, the nature of their responsibilities, and the persons to whom they report; and

(c) Identification of the patient care process.

(7) Each network shall establish a process by which it regularly evaluates the health care needs of its community and the services it provides in response to those needs.

(8) Each network shall provide the following educational opportunities:

(a) Ninety (90) minutes each week of continuing education to its health care providers on topics relating to patient care needs; and

(b) One and one-half (1.5) days leave and fifty percent (50%) of expenses up to three hundred dollars ($300) per year to its midlevel health care practitioners for approved continuing education outside of the network.

(9) Each network shall either provide directly for twenty-four (24) hour, seven (7) day per week access to care for its patients or have formal written agreements with local providers to insure twenty-four (24) hour, seven (7) day per week access to care for its patients.

(10) No network may charge or collect more money for the services of any midlevel health care practitioner than is allowable

under Medicaid for other nonphysician practitioners.

Section 444. KRS 216.915 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations necessary to implement KRS 216.900 to 216.910.

Section 445. KRS 216.920 is amended to read as follows:

There is hereby created the Kentucky Board of Family Health Care Providers.

(1) The board shall be composed of one (1) representative from each of the following organizations: the Kentucky Medical Association, the Kentucky Nursing Association, a physician from the Kentucky Public Health Association, the Kentucky Dental Association, the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the Kentucky Board of Pharmacy, the Kentucky Academy of Family Practitioners, a physician from either family practice or community medicine representing each of the colleges of medicine in the Commonwealth, and a consumer.

(2) The board shall:

(a) Certify new midlevel health care practitioners, recertify midlevel health care practitioners annually, and revoke certification as necessary;

(b) Develop and administer qualifying examinations for midlevel health care practitioners to test knowledge of the most frequently occurring protocols;

(c) Identify continuing education requirements for midlevel health care practitioners and qualify the continuing education courses provided to them;

(d) Approve or prescribe the treatment protocols utilized by each network;

(e) Approve the quality assurance programs of each network;

(f) Approve the drug formulary used by each network; and

(g) Issue administrative regulations necessary to implement this section and KRS 216.925.

(3) The board shall meet at least quarterly. The Cabinet for ***Health Services***~~[Human Resources]~~ shall provide necessary staff assistance to the board and shall reimburse board members at the rate of reimbursement for the advisory councils and committees.

(4) Applicants for certification and recertification shall pay a fee of fifty dollars ($50). These fees shall be placed in a trust and agency fund and shall be used to cover the cost of board operations and the administration of examinations.

(5) Upon appeal of a board decision, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 446. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the Finance and Administration Cabinet for administrative and budgetary purposes. The board shall be composed of ten (10) members. The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member shall be a practicing nursing home administrator appointed from a list of two (2) names submitted by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other four (4) members shall be practicing nursing home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky Association of Health Care Facilities and duly licensed under this chapter, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter.

Section 447. KRS 216B.010 is amended to read as follows:

The General Assembly finds that the licensure of health facilities and health services is a means to insure that the citizens of this Commonwealth will have safe, adequate, and efficient medical care; that the proliferation of unnecessary health care facilities, health services, and major medical equipment results in costly duplication and underuse of such facilities, services, and equipment; and that such proliferation increases the cost of quality health care within the Commonwealth. Therefore, it is the purpose of this chapter to fully authorize and empower the Cabinet for ***Health Services***~~[Human Resources]~~ to perform any certificate-of-need function and other statutory functions necessary to improve the quality and increase access to health care facilities, services, and providers, and to create a cost-efficient health care delivery system for the citizens of the Commonwealth.

Section 448. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter

13A;~~[.]~~

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;~~[.]~~

(3) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;~~[.]~~

(4) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;~~[.]~~

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;~~[.]~~

(6) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;~~[.]~~

(7) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;~~[.]~~

(8) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;~~[.]~~

(9) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;~~[.]~~

(10) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;~~[.]~~

(11) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;~~[.]~~

(12) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;~~[.]~~

(13) "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices***;***[~~.~~]

(14) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record***;***[~~.~~]

(15) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state***;***[~~.~~]

(16) "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet***;***[~~.~~]

(17) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(18) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor***;***[~~.~~]

(19) "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility***;***[~~.~~]

(20) "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility***;***[~~.~~]

(21) "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation***;***[~~.~~]

(22) "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person***;***[~~.~~]

(23) "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area***;***[~~.~~]

(24) "To establish" means to construct, develop, or initiate a health facility***;***[~~.~~]

(25) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract***; and***[~~.~~]

(26) "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 449. KRS 216B.135 is amended to read as follows:

There is hereby created a Task Force on Health Care Cost and Quality for the purpose of studying the implementation of KRS

216B.015, 216B.020, 216B.040, 216B.042, 216B.061, 216B.065, 216B.085, 216B.086, 216B.090, 216B.095, 216B.115, and 216B.120. The task force members shall be appointed by the Governor on July 13, 1990. The task force shall include a reasonable number of members and shall include, but not be limited to, chief executive officers of nonprofit health insurance organizations and for-profit and not-for-profit health care institutions and prominent citizens with an interest in health care cost containment. The task force shall be co-chaired by the mayor of the largest city within and county judge/executive of any county containing more than 3,000 acute care hospital beds. The task force shall hold its first meeting no later than July 30, 1990, and shall meet at least bimonthly. The task force shall forward a report of its findings and recommendations to the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and to the Legislative Research Commission no later than December 31, 1991.

Section 450. KRS 216B.300 is amended to read as follows:

As used in KRS 216B.300 to 216B.320 and KRS 216B.990(7), unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~ or its designee. Designee shall be defined as any agency established under KRS Chapter 211 or KRS 147A.050 whose duties related to this chapter shall be set forth in administrative regulation***;***~~[.]~~

(2) "Secretary" means the secretary of the Cabinet for ***Health Services;***~~[Human Resources.]~~

(3) "Boarder" means a person who does not require supervision or assistance related to medication, activities of daily living, or a supervised plan of care***; and***~~[.]~~

(4) "Boarding home" means any home, facility, institution, lodging, or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator, or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(4).

Section 451. KRS 216B.303 is amended to read as follows:

Every resident in a boarding home, as defined in KRS 216B.300, shall have at least the following rights:

(1) Before entering a boarding home, the resident or the resident's guardian, if any, shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all services provided by the boarding home and all applicable charges.

(2) Before entering a boarding home, the resident or the resident's guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all the resident's rights as defined in this section, and a list of any rules established by the boarding home.

(3) All residents shall be allowed to exercise their rights as a resident and a citizen, and may voice grievances and recommend changes in policies and services to the boarding home operator and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.

(4) All residents shall be free from mental and physical abuse.

(5) Each resident may manage the use of his personal funds. The boarding home operator shall not require a resident to designate the operator as payee for any benefits received by the resident. However, if the operator accepts the responsibility for managing the resident's personal funds as evidenced by the operator's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include the operator giving quarterly itemized statements to the resident or the resident's guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The operator shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time the resident leaves the boarding home.

(6) Residents shall not be required to perform services for the boarding home.

(7) Residents may associate and communicate privately with persons of their choice, within reasonable hours established by the boarding home, and send and receive personal mail unopened.

(8) No resident shall be detained against the resident's will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish.

(9) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(10) Residents shall be assured of at least visual privacy in multibed rooms and in bathrooms.

(11) If the resident has been adjudicated wholly mentally disabled in both financial and personal affairs in accordance with KRS 387.590, the resident's guardian shall not place the ward in a boarding home.

(12) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality.

(13) Residents shall have access to a telephone at a convenient location within the boarding home for making and receiving telephone calls subject to reasonable rules established by the boarding home.

(14) Residents have the right to have private meetings with inspectors representing the Cabinet for ***Health Services***~~[Human Resources]~~.

(15) Each resident and his guardian has the right to have access to all inspection reports on the boarding home.

Section 452. KRS 216B.305 is amended to read as follows:

(1) No person shall operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. The secretary shall impose a fee, not to exceed one hundred dollars ($100), for this registration.

(2) The secretary shall adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes. The administrative regulations shall include minimum requirements in the following areas:

(a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

(b) Bedding, linens, and laundry services provided to residents;

(c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;

(d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;

(e) Maintenance of the building;

(f) Food handling, preparation, and storage, and kitchen sanitation;

(g) Handling and storage of resident's prescription drugs; and

(h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home.

(3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:

(a) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and

(b) All applicable local health, fire, building and safety codes and zoning ordinances.

(4) Any boarding home found to be out of compliance with administrative regulations relating to boarding homes promulgated pursuant to subsection (2) of this section, after being provided with written notice of noncompliance and a reasonable period of time for correction, shall not be registered. A boarding home operator may appeal the cabinet's denial of registration, and an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.

(5) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.

(6) Nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 453. KRS 216B.410 is amended to read as follows:

All conforming ambulance services, but no nonconforming ambulance services, shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters, and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

(1) Two (2) copies of the Kentucky emergency medical service ambulance run report form, one (1) copy to be kept in the files of the ambulance services and one (1) copy to be submitted to the hospital to which the patient is transported and maintained in the hospital's files, or ambulance run report information compiled and disseminated by electronic means approved by the Cabinet for ***Health Services***[~~Human Resources~~];

(2) Employee records, including a resume of each employee's training and experience and evidence of current certification; and

(3) Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

Section 454. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455***:***[~~.~~]

(1) "Cabinet" means the Cabinet for ***Health Services;***[~~Human Resources.~~]

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community***;***[~~.~~]

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-

type routines appropriate to the ages and levels of functioning of the residents***; and***~~[.]~~

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of eight (8) beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

Section 455. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) ~~[The term]~~"Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) ~~[The term]~~"Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~ or its designee;

(3) ~~[The term]~~"Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;

(4) ~~[The term]~~"Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(5) ~~[The term]~~"Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) ~~[The term]~~"Device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) ~~[The term]~~"Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) ~~[The term]~~"Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) ~~[The term]~~"Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(10) ~~[The term]~~"Immediate container" shall not include package liners;

(11) ~~[The term]~~"Labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(13) ~~[The term]~~"Advertisement" means all representations disseminated in any manner or by any means, other than by

labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(15) [~~The term~~]"New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(16) [~~The term~~]"Contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) [~~The term~~]"Federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq., or amendments thereto);

(19) [~~The term~~]"Flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) [~~The term~~]"Enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) [~~The terms~~]"Bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) [~~The term~~]"Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) [~~The term~~]"Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;

(24) [~~The term~~]"Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(25) [~~The term~~]"Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);

(26) [~~The term~~]"Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;

(27) [~~The term~~]"Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and

cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;

(28) ~~[The term]~~"Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) ~~[The term]~~"Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) ~~[The term]~~"Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

- (a) A pesticide chemical in or on a raw agricultural commodity; or
- (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
- (c) A color additive; or
- (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) ~~[The term]~~"Color additive" means a material which:

  1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or
  2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;

(b) ~~[The term]~~"Color" shall include, but not be limited to black, white, and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) ~~[The term]~~"Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(33) ~~[The term]~~"Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(34) ~~[The term]~~"Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(35) ~~[The term]~~"Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(36) ~~[The term]~~"Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) ~~[The term]~~"Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise

trafficking in any salvaged merchandise;

(38) [~~The term~~]"Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) [~~The term~~]"Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and

(40) [~~The term~~]"Food storage warehouse" means any establishment in which food is stored for subsequent distribution.

Section 456. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for ***Health Services***[~~Human Resources~~].

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection (6) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(6) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade and all facilities operated by the Cabinet for ***Health Services, the Cabinet for Families and Children,***[~~Human Resources~~] or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code.

(7) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (6) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(8) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 457. KRS 217.177 is amended to read as follows:

(1) No person engaged in sales at retail shall display hypodermic syringes or needles in any portion of the place of business which is open or accessible to the public.

(2) Every person engaged in sales of hypodermic syringes or needles at retail shall maintain a bound record in which shall be kept:

(a) The name of the purchaser; and

(b) The address of the purchaser; and

(c) The quantity of syringes or needles purchased; and

(d) The date of the sale; and

(e) Planned use of such syringes or needles.

(3) Said record shall be maintained for a period of two (2) years from the date of the sale and shall be available for inspection during business hours by any law enforcement officer, agent or employee of the Cabinet for ***Health Services***~~[Human Resources]~~ or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.

(4) No person shall present false identification or give a false or fictitious name or address in obtaining or attempting to obtain any hypodermic syringe or needle.

(5) No person engaged in the retail sale of hypodermic syringes or needles shall:

(a) Fail to keep the records required by this section; or

(b) Fraudulently alter any record required to be kept by this section; or

(c) Destroy, before the time period required by this section has elapsed, any record required to be kept by this section; or

(d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does not present the identification required by this section; or

(e) Disclose the names in said book except to those required by this section.

(6) Any physician, other licensed medical person, hospital, or clinic disposing of hypodermic syringes or needles shall crush the barrel of same or otherwise render the instrument incapable of further use.

Section 458. KRS 217.285 is amended to read as follows:

(1) Each food service establishment, having an on-premises seating capacity of twenty-five (25) persons or more, shall post inside the establishment, in a location conspicuous to employees, a choke-saving techniques poster meeting the following requirements.

(2) The choke-saving techniques poster shall meet the following specifications:

(a) The poster shall depict through illustration and description procedures for the removal of food which is lodged in a person's throat; and

(b) The techniques illustrated and described shall include, but need not be limited to, the procedures whereby the choking person is grasped around the lower chest and upper abdomen and given a quick jerk, thus putting increased interabdominal pressure on the lungs and expelling the foreign matter.

(3) The Cabinet for ***Health Services***~~[Human Resources]~~ shall produce or requisition the production of the choke-saving techniques poster as provided in this section and shall supply the posters to the local health departments for distribution without cost to food establishments.

Section 459. KRS 217.380 is amended to read as follows:

(1) The officials in charge of the enforcement of the pure food laws of this state, the secretary for ***health services***~~[human resources]~~, the local health officers, and the duly appointed agents of all such, shall enforce the provisions of KRS 217.280 to 217.390. For this purpose such officers shall have full power at all times to enter every building, room, inclosure or premises occupied or used or suspected of being occupied or used for the preparation or manufacture for sale, or the storage, sale, distribution or transportation, of such food, and to inspect the premises and all utensils, fixtures, furniture and machinery used therein.

(2) If upon inspection there is found any violation of any of the provisions of KRS 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees or to the character or quality of the food, the officer or inspector making the inspection shall report the conditions and violations to the chief pure food official, or to the secretary for ***health services***~~[human resources]~~, or to the chief local health officer, as the case may be.

(3) The officer to whom the report is made shall thereupon issue a written order to the person responsible for the violation or condition to abate the condition or violation or to make the changes or improvements necessary to abate them, within a reasonable time as fixed in the order. Notice of the order may be served by delivering a copy to the person, or by sending a copy by certified mail, return receipt requested in which case the post office receipt shall be prima facie evidence that the notice was received. The person shall have the right to appear in person or by attorney before the officer issuing the notice or the person appointed by him for that purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why the order or instructions should not be obeyed. The hearing shall be under rules and regulations prescribed by the secretary for ***health services***~~[human resources]~~. If after the hearing it appears that the provisions of KRS 217.280 to 217.390 have not been violated, the order shall be rescinded. If it appears that the provisions of KRS 217.280 to 217.390 are being violated, and that the person notified is responsible therefor, the previous order shall be confirmed or amended, as the facts warrant, and shall thereupon be final, but such additional time

as is necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the Commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

Section 460. KRS 217.544 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant or desiccant, or as a functioning agent in a spray adjuvant;

(2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;

(3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;

(4) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment;

(5) "Board" means the Pesticide Advisory Board;

(6) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;

(7) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue;

(8) "Device" means any instrument or contrivance other than a firearm which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man and other bacteria, virus, or other microorganisms on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately therefrom;

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having received, deliver or offer to deliver pesticides in this state;

(10) "Environment" includes water, air, land and all plants and man and other animals living therein and the interrelationships which exist among these;

(11) "EPA" means the United States Environmental Protection Agency;

(12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended;

(13) "Fungi" means all non-chlorophyll bearing thallophytes; that is, all non-chlorophyll bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under the authority of Sec. 25(c)(2) of FIFRA or by the department under this chapter;

(15) "Imminent hazard" means a situation which exists when the continued use of a pesticide would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the United States Department of Interior under Public Law 91-135 of the United States Congress;

(16) "Inert ingredient" means an ingredient which is not an active ingredient;

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide and, when the pesticide contains arsenic in any form, a statement of the percentage of total and water soluble arsenic, each stated as elemental arsenic;

(18) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as, for example, spiders, mites, ticks, centipedes, and wood lice, also nematodes and other invertebrates which are destructive, constitute a liability, and may be classed as pests;

(19) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or to any of its containers or wrappers;

(20) "Labeling" means the label and other written, printed or graphic matter:

(a) On the pesticide or device, or any of its containers or wrappers;

(b) Accompanying the pesticide or device at any time or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in the literature accompanying the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, the Departments of Agriculture and Interior, the Department of Health, Education and Welfare, and other similar federal institutions, the College of Agriculture, University of Kentucky, Kentucky Agricultural Experiment Station, Cabinet for ***Health Services***~~[Human Resources]~~, Natural Resources and Environmental Protection Cabinet, or other agencies of this state or other states when such agencies are authorized by law to conduct research in the field of pesticides;

(21) "Land" means all land and water areas, including air space and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto, or situated thereon, fixed or mobile, including any used for transportation;

(22) "Misbranded" means a pesticide is misbranded if:

(a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) It is an imitation of or is distributed under the name of another pesticide;

(c) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under section 3(d) of FIFRA are adequate to protect health and the environment;

(d) The labeling does not contain a statement of the use classification under which the product is registered by EPA;

(e) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of FIFRA, is adequate to protect health and the environment;

(f) The label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of the purchase; provided, that the ingredient statement may appear prominently on another part of the container pursuant to section 2(q) 2(A) (i) (ii) of FIFRA if the size and form of the container makes it impractical to place it on that part of the retail package which is presented or displayed under customary conditions of purchase;

(g) Any word, statement, or other information required by KRS 217.542 to 217.630 or FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared to other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(h) The label does not bear the name, brand or trademark under which the pesticide is distributed;

(i) The label does not bear the net weight or measure of the content;

(j) The label does not bear the name and address of the manufacturer, registrant or person for whom manufactured; and

(k) The label does not bear the EPA registration number assigned to each establishment in which the product is produced and the EPA number assigned to the pesticide, if required by regulation under FIFRA;

(23) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms;

(24) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(25) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department may declare to be a pest;

(26) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and any substance or mixture of substances intended to be used as a spray adjuvant;

(27) "Plant regulator" means any substance or mixture of substances, intended through physiological actions, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(28) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment;

(29) "Registrant" means a person who has registered any pesticide pursuant to the provisions of KRS 217.542 to 217.630;

(30) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by regulation of the department;

(31) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used;

(32) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;

(33) "Weed" means any plant which grows where not wanted; and

(34) "Wildlife" means all living things that are neither human, domesticated, nor as defined in KRS 217.542 to 217.630, pests, including but not limited to mammals, birds and aquatic life.

Section 461. KRS 217.660 is amended to read as follows:

As used in KRS 217.650 to 217.710 unless the context indicates otherwise:

(1) "Secretary" means the secretary for ***health services***[~~human resources~~];

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(3) "Person" includes any individual, partnership, corporation, firm or association;

(4) "Hazardous substance" means any substance or mixture of substances which is:

  (a) "Toxic" and has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

  (b) "Corrosive" on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

  (c) "Irritant" and not corrosive within the meaning of paragraph (b), which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction;

  (d) "Strong sensitizer" and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the secretary;

  (e) "Flammable" with a flashpoint of eighty (80) degrees Fahrenheit or below;

  (f) "Radioactive" as a result of disintegration of unstable atomic nuclei and emits energy;

  (g) Capable of generating pressure through decomposition, heat, or other means;

  (h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use; ***and***

(5) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance, or that is easily legible through the outside container or wrapper.

Section 462. KRS 217.801 is amended to read as follows:

(1) Paint manufactured after July 1, 1972, containing more than .5% lead by weight of the nonvolatile content shall not be sold, or used on any toys, children's furniture, interior surface of any dwelling, or any other surface easily accessible to children under the age of 7 years. Such paints shall not be manufactured, sold, or used for any other purpose which would ultimately result in exposure to children under the age of 7 years unless proper application and documentation is made to the Cabinet for ***Health Services***[~~Human Resources~~] and the cabinet determines that no health hazard or danger to children exists from the intended use.

(2) All paints manufactured in this state after July 1, 1972, which will be used in this state will be clearly labeled as to use and hazard when containing more than .5% lead by weight of the total nonvolatile content.

(3) The above provisions of subsections (1) and (2) of this section shall apply to all paints containing more than .06% lead by weight of the total nonvolatile content after January 1, 1974.

Section 463. KRS 217.809 is amended to read as follows:

No person shall operate a vending machine company without having first obtained a permit to operate from the Cabinet for ***Health Services***[~~Human Resources~~] as provided in the regulations of the Cabinet for ***Health Services***[~~Human Resources~~]. All such permits shall expire on June 30 following the date of issue. The Cabinet for ***Health Services***[~~Human Resources~~] shall adopt regulations relating to vending machines. KRS 217.808 to 217.812 do not apply to blind persons who operate vending machines as part of a program established by federal or state law.

Section 464. KRS 217.812 is amended to read as follows:

All fees collected by the Cabinet for ***Health Services***[~~Human Resources~~] under the provisions of KRS 217.808 to 217.812 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in defraying the costs and expenses of the cabinet in the administration of KRS 217.808 to 217.812. Such funds may be expended for training of state and local sanitation personnel. The balance of this fund shall revert to the general fund of the Commonwealth at the end of each biennium.

Section 465. KRS 217.950 is amended to read as follows:

(1) Amygdalin (laetrile) may be manufactured in this state subject to licensing and regulation by the Cabinet for ***Health Services***~~[Human Resources]~~. The secretary of the cabinet shall adopt regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing, and packaging the substance. The secretary shall establish standards of purity and shall make periodic tests and inspections of both the facilities for manufacture and samples of the substance to ascertain the purity, quality, and identity of the substance and to determine that the substance meets the standards so established.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall make no rule or regulation which would prohibit the use of amygdalin (laetrile) in any hospital, ambulatory outpatient surgical center, or health care facility licensed by it.

Section 466. KRS 217.993 is amended to read as follows:

(1) Any person violating any provisions of KRS 217.650 to 217.710 shall be guilty of a violation. Each day of violation shall constitute a separate offense.

(2) Any person violating any provisions of KRS 217.900(2) shall upon conviction be guilty of a Class B misdemeanor.

(3) Any person found guilty of inhaling a volatile substance in violation of KRS 217.900(2) may be ordered to a facility designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment or may order the person subject to the fine or imprisonment, or both, for a Class B misdemeanor. Upon discharge of the person from the facility by the clinical director or his designee prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The clinical director or his designee shall notify the sentencing court of the date of such discharge from the facility.

(4) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or his designee shall inform each court of the identity and location of the facility to which a person may be ordered under this section.

(5) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for ***Health Services***~~[Human Resources]~~ unless the facility shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) Any person violating any provision of KRS 217.900(3) shall upon conviction be guilty of a Class D felony.

Section 467. KRS 217C.030 is amended to read as follows:

As used in this chapter:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 468. KRS 217C.070 is amended to read as follows:

(1) The secretary for ***health services***~~[human resources]~~ shall appoint a grade A milk advisory committee composed of eight (8) appointive members. Three (3) members shall be processors, or representatives thereof; three (3) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.

(2) The secretary for ***health services***~~[human resources]~~ shall appoint a milk for manufacturing advisory committee composed of eight (8) appointive members. Four (4) members shall be processors, or representatives thereof; two (2) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.

(3) The secretary for ***health services***~~[human resources]~~ or his designated representative shall be an ex officio member and secretary of each committee. The appointments to each committee shall be made for a term of four (4) years, or until their successors are appointed and qualify, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the secretary for ***health services***~~[human resources]~~ at the time of their appointment. Such members shall serve without compensation but may be reimbursed for necessary

traveling expenses. Procedures for selection of advisory nominees shall be in accordance with the regulations of the secretary.

Section 469. KRS 217C.990 is amended to read as follows:

Any person who violates any provision of this chapter, or any rule or regulation adopted hereunder, or who fails to comply with an order of the Cabinet for ***Health Services***~~[Human Resources]~~ issued pursuant thereto, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each day of violation or noncompliance shall constitute a separate offense.

Section 470. KRS 218A.020 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for ***Health Services***~~[Human Resources]~~ may consider the following:

(a) The actual or relative potential for abuse;

(b) The scientific evidence of its pharmacological effect, if known;

(c) The state of current scientific knowledge regarding the substance;

(d) The history and current pattern of abuse;

(e) The scope, duration, and significance of abuse;

(f) The risk to the public health;

(g) The potential of the substance to produce psychic or physiological dependence liability; and

(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(2) After considering the factors enumerated in subsection (1) the Cabinet for ***Health Services***~~[Human Resources]~~ may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for ***Health Services***~~[Human Resources]~~, the Cabinet for ***Health Services***~~[Human Resources]~~ may similarly control the substance under this chapter by regulation.

(4) The Cabinet for ***Health Services***~~[Human Resources]~~ shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).

Section 471. KRS 218A.040 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

Section 472. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; The bacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances,

their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3,4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone, Cat, and Ephedrone).

Section 473. KRS 218A.060 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

Section 474. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

  (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

  (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

  (c) Opium poppy and poppy straw;

  (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine, Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

  (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

  (b) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

  (c) Phenmetrazine and its salts;

  (d) Methylphenidate.

Section 475. KRS 218A.080 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Section 476. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, the controlled substances listed in this section are included in Schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: Any

substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid amide; methyprylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane.

(2) Nalorphine.

(3) Pentazocine (parenteral or injectable form only).

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
- (b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts;
- (c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
- (d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (f) Not more than 300 milligrams of ethylmorphine, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;
- (g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- (i) The Cabinet for ***Health Services***~~[Human Resources]~~ may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroid substances, or any isomer, ester, salt, or derivative thereof:

- (a) Boldenone;
- (b) Clostebol;
- (c) Dehydrochlormethyltestosterone;
- (d) Drostanolone;
- (e) Ethylestrenol;
- (f) Fluoxymesterone;
- (g) Formebulone;
- (h) Mesterolone;
- (i) Methandienone;
- (j) Methandriol;
- (k) Methenolone;
- (l) Methyltestosterone;
- (m) Mibolerone;
- (n) Nandrolone;
- (o) Norethandrolone;
- (p) Oxandrolone;
- (q) Oxymesterone;
- (r) Oxymetholone;
- (s) Stanolone;

(t) Stanozolol;

(u) Testolactone;

(v) Testosterone; and

(w) Trenbolone.

(6) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is expressly intended for administration through implant to livestock or other nonhuman species, and that is approved by the United States Food and Drug Administration for such use.

Section 477. KRS 218A.100 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

Section 478. KRS 218A.110 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, the controlled substances listed in this section are included in Schedule IV:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: chloral betaine; chloral hydrate; ethchlorvynol; ethinamate; meprobamate; paraldehyde; petrichloral.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Section 479. KRS 218A.120 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Section 480. KRS 218A.130 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~ the controlled substances listed in this section are included in Schedule V:

Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone: Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams.

Section 481. KRS 218A.150 is amended to read as follows:

(1) No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce, or prepare controlled substances, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the Cabinet for ***Health Services***~~[Human Resources]~~. The Cabinet for ***Health Services***~~[Human Resources]~~ may adopt regulations and set reasonable fees relating to the issuance and renewal of such licenses. All such licenses shall expire on June 30, following the date of issue, unless renewed. All such fees shall be deposited in a revolving fund to be used by the cabinet in carrying out the provisions of this chapter.

(2) No person shall manufacture any controlled substance except under the direct supervision of a pharmacist.

Section 482. KRS 218A.160 is amended to read as follows:

(1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter unless the applicant therefor has furnished satisfactory proof:

  (a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] may suspend or revoke any license for cause.

(4) Upon appeal of any action taken under authority of this section, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 483. KRS 218A.190 is amended to read as follows:

(1) Nonprescription medicinal preparations that contain in 100 milliliters, or as a solid or semisolid preparation, in 100 grams, not more than 200 milligrams of codeine or its salts may be sold over the counter subject to the following conditions:

(a) That the medicinal preparation shall contain in addition to the codeine in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the codeine alone;

(b) That such preparation shall be dispensed or sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter;

(c) That such preparation shall only be sold at retail without a prescription to a person at least eighteen (18) years of age and only by a pharmacist. An employee may complete the actual cash or credit transaction or delivery;

(d) That such preparations shall not be displayed in areas of the pharmacy open to the public; and

(e) That no person shall purchase and no pharmacist or practitioner shall sell to the same person within a forty-eight (48) hour period more than 120 milliliters of an exempt codeine preparation. Any person purchasing in excess of this limitation shall be deemed to be in illegal possession.

(2) All wholesalers, manufacturers, and repackers shall keep a separate exempt codeine registry showing the following:

(a) Date;

(b) Registration number of recipient;

(c) Name of recipient;

(d) Address;

(e) Name of preparation; and

(f) Quantity.

(3) All pharmacists and practitioners shall keep a separate exempt codeine registry showing the following:

(a) Date;

(b) Name of recipient;

(c) Address;

(d) Name of preparation;

(e) Quantity; and

(f) Pharmacist's or practitioner's name.

(4) Notwithstanding any other provision of this section, the Cabinet for ***Health Services***[~~Human Resources~~] may by regulation specifically prohibit any such codeine preparation from being sold over the counter due to actual or potential abuse.

Section 484. KRS 218A.200 is amended to read as follows:

(1) Every practitioner who is authorized to administer or professionally use controlled substances, shall keep a record of such substances received by him, and a record of all such substances administered, dispensed, or professionally used by him otherwise than by prescription.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them.

(3) Pharmacists shall keep records of all controlled substances received and disposed of by them.

(4) The record of controlled substances received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity. Every such record shall be kept for a period of two (2) years. The keeping of a record under the federal controlled substances laws, containing substantially the same information as is specified ***in this subsection***[~~herein~~], shall constitute compliance with this section. A copy of the detailed list of

controlled substances lost, destroyed, or stolen shall be forwarded to the Cabinet for ***Health Services***~~[Human Resources]~~ as soon as practical.

Section 485. KRS 218A.230 is amended to read as follows:

All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(1) Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept.

(2) The court by whom the forfeiture of controlled substances has been decreed may order the delivery of same to the Cabinet for ***Health Services***~~[Human Resources]~~ for destruction. Practitioners, pharmacists, hospitals and nursing homes may voluntarily surrender controlled substances to the Cabinet for ***Health Services***~~[Human Resources]~~ for destruction.

(3) The Cabinet for ***Health Services***~~[Human Resources]~~ shall keep a record of all substances received and of all substances disposed of, showing the exact kinds, quantities, and forms of such substances, the persons from whom received and the time, place and manner of destruction.

(4) Prescriptions, orders, and records, required by this chapter, and stocks of controlled substances, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(5) No pharmacist, practitioner, manufacturer, or wholesaler or other custodian of records, prescriptions, or orders required by this chapter shall refuse to permit the inspection thereof by any federal, state, county or municipal officer whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

Section 486. KRS 218A.240 is amended to read as follows:

(1) It is hereby made the duty of all peace officers within this state, the State Police, the Cabinet for ***Health Services***~~[Human Resources]~~, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, to enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for ***Health Services***~~[Human Resources]~~ shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence.

(3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for ***Health Services***~~[Human Resources]~~.

(4) Designated agents of the Cabinet for ***Health Services***~~[Human Resources]~~ and the Kentucky Board of Pharmacy are empowered to remove from the files of any pharmacy or other custodian any controlled substance prescription upon tendering a receipt therefor.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

(a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

(b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

(c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his costs, including a reasonable attorney's fee.

(d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his percentage of the funds shall go to the agency initiating the forfeiture action.

(6) It shall be the duty of the Cabinet for ***Health Services***~~[Human Resources]~~ to make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether or not any provision thereof has been violated.

Section 487. KRS 218A.250 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A for carrying out the provisions of this chapter. Administrative hearings on appeals filed pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.

Section 488. KRS 218A.275 is amended to read as follows:

(1) Any person found guilty of possession of a controlled substance pursuant to KRS 218A.1416 or 218A.1417 may for a first offense, be ordered to a facility designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ where a program of treatment and rehabilitation not to exceed one (1) year in duration may be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, prior to the expiration of the one (1) year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, shall inform each court of the identity and location of the facility to which such person is sentenced.

(3) Transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary for ***health services***~~[human resources]~~, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for ***Health Services***~~[Human Resources]~~, unless the person and the facility shall arrange otherwise.

(7) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from any facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates; in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(8) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(9) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of a conviction under the subsection and dismissal may occur only once with respect to any person.

Section 489. KRS 218A.276 is amended to read as follows:

(1) Any person found guilty of possession of marijuana pursuant to KRS 218A.1422 may be ordered to a facility designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration may be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty

dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(3) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for ***Health Services***~~[Human Resources]~~, unless the person and the facility shall arrange otherwise.

(7) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

Section 490. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for ***Health Services***~~[Human Resources]~~ by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter, the law enforcement agency may, subject to the provisions of KRS 218A.435:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be paid into the fund created in KRS 218A.435. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

Section 491. KRS 218A.435 is amended to read as follows:

(1) There is~~[hereby]~~ created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund"~~[herein]~~ referred to ***in this section*** as the "trust fund."

(2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for ***Health Services***[~~Human Resources~~] to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and

(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], the commissioner of the Department of Corrections, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, the first fifty thousand dollars ($50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund. but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars ($50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 492. KRS 219.011 is amended to read as follows:

As used in KRS 219.011 to 219.081:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~] or its designee***;***[~~.~~]

(3) "Hotel" means every building or structure kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public, and includes motels, tourist homes, and similar establishments, but excludes boarding houses and rooming houses***; and***[~~.~~]

(4) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a hotel.

Section 493. KRS 219.320 is amended to read as follows:

As used in KRS 219.330 to 219.410:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(2) "Cabinet" means the Cabinet for ***Health Services;***[~~Human Resources.~~]

(3) "Mobile home" means a transportable dwelling unit suitable for year-round occupancy, which is manufactured on a chassis or undercarriage as an integral part thereof, containing facilities for water, sewage, bath and electrical conveniences***;***[~~.~~]

(4) "Mobile home lot" means a parcel of land in a mobile home park for the placement of a single mobile home***;***[~~.~~]

(5) "Mobile home park" means a parcel of land, under the control of any person, available to the public in which two (2) or more mobile home lots are occupied or intended for occupancy by mobile homes and includes any service building, structure, enclosure or other facility used as a part of the park***;***[~~.~~]

(6) "Park" means mobile home parks and recreational vehicle parks***;***[~~.~~]

(7) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a park***;***[~~.~~]

(8) "Recreational vehicle" means any of the following:

   (a) "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation or vacation***;***[~~.~~]

   (b) "Pick-up coach" means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation or vacation***;***[~~.~~]

   (c) "Motor-home" means a portable, temporary dwelling to be used for travel, recreation or vacation, constructed as an integral part of a self-propelled vehicle***;***[~~.~~]

   (d) "Camping trailer" means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation or vacation use***;***[~~.~~]

   (e) "Dependent recreational vehicle" means a recreational vehicle which does not have toilet, lavatory, or bathing facilities***; or***[~~.~~]

   (f) "Self-contained recreational vehicle" means a recreational vehicle which can operate independent of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of which are connected to water storage and sewage holding tanks located within the recreational vehicle.

(9) "Recreational vehicle park" means a parcel of land available to the public in which two (2) or more recreational vehicle spaces are occupied or intended for occupancy by recreational vehicles for transient dwelling purposes and includes any service building, structure, enclosure or other facility used as a part of the park***;***[~~.~~]

(10) "Recreational vehicle space" means a parcel of land in a recreational vehicle park for the placement of a single recreational vehicle***;***[~~.~~]

(11) "Sanitary station" means a facility used for receiving and disposing of wastes from recreational vehicle holding tanks***;***[~~.~~]

(12) "Service building" means a building containing water closets, urinals, lavatories and bathing facilities for use by persons using the park***; and***[~~.~~]

(13) "Watering station" means a facility for filling the water storage tanks of recreational vehicles with potable water from an approved water system.

Section 494. KRS 219.350 is amended to read as follows:

No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the cabinet upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the cabinet may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. All plans for the construction, installation or alteration of buildings shall be forwarded by the cabinet to the Department of Housing, Buildings and Construction. Only the Department of Housing, Buildings and Construction shall review such plans for conformance with the uniform state building code. The Department of Housing, Buildings and Construction shall expedite the review of such plans and return them to the Cabinet for ***Health Services***[~~Human Resources~~] for completion of the application process. Each application for a permit to construct or alter a park shall be accompanied by a permit fee of twenty-five dollars ($25). Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one (1) year from date of issuance.

Section 495. KRS 219.390 is amended to read as follows:

(1) For the purpose of assisting in the developing and review of standards and regulations for the administration of KRS 219.310 to 219.410, there is hereby created a State Advisory Committee on Mobile Home and Recreational Vehicle

Parks. The committee shall be composed of nine (9) members. The secretary for ***health services***[~~human resources~~] or his designee shall be an ex officio member. The other members shall be appointed by the secretary for ***health services***[~~human resources~~], three (3) of whom shall represent park owners, two (2) of whom shall represent mobile home and recreational vehicle dealers, two (2) of whom shall represent local health departments and one (1) member shall be a citizen at large.

(2) All appointed members shall serve for a term of four (4) years except that, of the original appointees, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years, two (2) shall serve for three (3) years and two (2) shall serve for four (4) years. All vacancies shall be filled in the manner of original appointment for the unexpired portion of the term only.

(3) Members of the committee shall receive no compensation for their services, but may be reimbursed for necessary travel expenses.

Section 496. KRS 221.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(3) "Food" includes any article used by man for food, drink, confectionery or condiment, or which enters into the composition of the same whether simple, blended, mixed or compounded;

(4) "Frozen food locker plant" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food and which is equipped with a chill room, sharp freezing facilities and facilities for cutting, preparing, wrapping and packaging meats and meat products, fruits and vegetables;

(5) "Branch frozen food locker plant" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food after preparation for storage at a frozen food locker plant; ***and***

(6) "Sharp frozen" means the freezing of food in a room in which the temperature is zero (0) degrees Fahrenheit or lower.

Section 497. KRS 222.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrator" means the person or the designee of the person, in charge of the operation of an alcohol and other drug abuse prevention, intervention, or treatment program***;***[~~.~~]

(2) "Agency" means a legal entity operating hospital-based or nonhospital-based alcohol and other drug abuse prevention, intervention, or treatment programs***;***[~~.~~]

(3) "Cabinet" means the Cabinet for ***Health Services;***[~~Human Resources.~~]

(4) "Director" means the director of the Division of Substance Abuse of the Department for Mental Health and Mental Retardation Services***;***[~~.~~]

(5) "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical***;***[~~.~~]

(6) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function***;***[~~.~~]

(7) "Juvenile" means any person who is under the age of eighteen (18)***;***[~~.~~]

(8) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900***;***[~~.~~]

(9) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program***;***[~~.~~]

(10) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating alcohol and other drug abuse problems***;***[~~.~~]

(11) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(12) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:

  (a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;

  (b) Use in situations which are potentially physically hazardous;

  (c) Loss of control over the use of alcohol or other drugs or both; and

  (d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both***;***[~~.~~]

(13) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and alcohol and other drug abusers***; and***[~~.~~]

(14) "Narcotic treatment program" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group.

Section 498. KRS 222.021 is amended to read as follows:

(1) There is hereby created within the Cabinet for ***Health Services***[~~Human Resources~~] a Substance Abuse and Pregnancy Work Group. The work group shall carry out the planning and coordinating activities of the Commonwealth with regard to substance dependency and abuse during pregnancy.

(2) The work group shall be appointed by the Secretary for ***Health Services***[~~Human Resources~~] and be composed of, but not restricted to, a representative of the Cabinet for ***Health Services***[~~Human Resources~~], Department for ***Public*** Health[~~ Services~~], Division of Maternal and Child Health Services; Department for Social Services; Department for Mental Health and Mental Retardation Services, Division of Substance Abuse and Division of Mental Health; Department for Medicaid Services; Justice Cabinet, Department of State Police, Drug Enforcement, Special Investigations Unit; Department of Education, Division of Program Resources; Office of the Attorney General; Office for a Drug Free Kentucky; Regional Community Mental Health and Mental Retardation System; University of Louisville, School of Medicine, Department of Pediatrics; University of Kentucky Medical Center, Department of Obstetrics and Gynecology; local or district health department; Kentucky Psychological Association; Kentucky Pharmacists Association; Kentucky Hospital Association; Kentucky Nurses Association; and the Kentucky Medical Association. The Director of the Division of Substance Abuse shall serve as chairperson.

(3) The work group shall meet at least quarterly and shall periodically assess the extent of alcohol and other substance dependency and abuse among Kentucky women who are pregnant; identify, develop, and coordinate resources available and needed within the Commonwealth for any person who is pregnant and at risk of alcohol and substance dependency or abuse; and identify, develop, and coordinate resources available and needed for infants and children exposed to alcohol or drugs during pregnancy.

(4) The work group shall make an annual report, no later than January 1 of each year, of its activities and any recommendations to the Secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and the Legislative Research Commission.

(5) The provisions of subsections (1) to (4) of this section, creating a Substance Abuse and Pregnancy Work Group shall expire on July 15, 1998. As of that date, the Substance Abuse and Pregnancy Work Group shall cease to exist.

Section 499. KRS 222.037 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] may establish four (4) or more pilot projects within the Commonwealth to demonstrate the effectiveness of different methods of providing community services to prevent alcohol and substance abuse by pregnant females; improving agency coordination to better identify the pregnant substance abuser and other females who have substance abuse problems; linking with community services and treatment for the chemically dependent woman, her children, and other family members; and gaining access to early intervention services for infants in need.

(2) The Cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 500. KRS 222.421 is amended to read as follows:

(1) Any person may request treatment from a physician or alcohol and other drug abuse program licensed or approved by the Cabinet for ***Health Services***[~~Human Resources~~] to provide alcohol and other drug abuse treatment services.

(2) Every alcohol and other drug abuse program that provides intervention or treatment services to a person with an alcohol and other drug abuse problem or prevention programming to any persons in the community shall, upon request of the Cabinet for ***Health Services***[~~Human Resources~~], make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided prevention, intervention, and treatment services during a specified period of time. The name or address of any person to whom prevention, intervention, or treatment services were provided shall not be reported. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall provide compilations of the statistical information to other appropriate agencies upon request.

Section 501. KRS 222.212 is amended to read as follows:

Notwithstanding the provisions of Chapter 13A, all administrative regulations promulgated by the Cabinet for Human Resources relating to the licensing of alcohol and drug abuse prevention, education, and treatment programs and on file with the Legislative Research Commission on July 15, 1994, shall remain in full force and effect unless subsequently amended or repealed by the Cabinet ***for Health Services***.

Section 502. KRS 222.460 is amended to read as follows:

(1) As a requirement to receive state or federal funds, including Medicaid, a treatment center or program licensed as a chemical dependency treatment service pursuant to KRS 216B.105 or this chapter shall participate in an evaluation or client outcome effectiveness study conducted by the Cabinet for ***Health Services***[~~Human Resources~~].

(2) Information for the evaluation shall include, but is not limited to, the following:

  (a) The total number of alcohol and drug abuse clients admitted to treatment;

  (b) The total number of referrals from the District and Circuit Courts and the Department of Corrections;

  (c) The client's change in alcohol and other drug use patterns from admission to discharge from treatment;

  (d) The client's change in employment status from admission to discharge from treatment; and

  (e) The client's change in involvement with the criminal justice system from admission to discharge from treatment.

(3) All information collected pursuant to this chapter shall be held confidential with respect to the identity of individual clients. Access to information that identifies individual clients may be provided to qualified persons or organizations with a valid scientific interest, as determined by the secretary of ***health services***[~~human resources~~], who are engaged in research related to patterns of drug and alcohol use, the effectiveness of treatment, or similar studies and who agree in writing to maintain confidentiality.

Section 503. KRS 222.475 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall annually submit to the Governor a treatment center evaluation report. The report shall include, but not be limited to, the following information:

(1) An inventory of all licensed chemical dependency treatment services in Kentucky;

(2) The information submitted by each treatment center or program pursuant to KRS 222.460 and 222.465; and

(3) The employment, educational, and criminal history of clients in each program that received state or federal funds.

Section 504. KRS 223.010 is amended to read as follows:

As used in KRS 223.020 to 223.080, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Registered environmental health specialist or sanitarian" means a person trained in the field of environmental health who has qualified for registration in accordance with the provisions of this chapter;

(3) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~]; ***and***

(4) "Environmental health activity" means those program areas administered by the state and local health departments including, but not limited to, food protection, control of insect and rodents, radiation, private water supplies, on-site waste, and other environmental program areas. The term does not cover programs not administered by the cabinet.

Section 505. KRS 223.020 is amended to read as follows:

(1) The secretary shall appoint a registered environmental health specialist or a sanitarian examining committee consisting of five (5) members. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall be an ex officio member. The other four (4) members shall be environmental health specialists or sanitarians who are registered under this chapter. The appointed members shall serve for terms of two (2) years and until their successors are appointed and qualify, except that when initial appointments are made under the provisions of this chapter, two (2) members' terms shall be for only one (1) year. Thereafter all appointments shall be for a period of two (2) years.

(2) The examining committee shall conduct, or cause to be conducted, examinations of applicants pursuant to minimum standards and qualifications established by the secretary. The examining committee shall act in an advisory capacity to the secretary in establishing such minimum standards and qualifications.

Section 506. KRS 224.10-194 is amended to read as follows:

There are[~~ hereby~~] transferred to and vested in the commissioner and the Department for ***Public*** Health[~~ Services~~] all functions, powers and duties, funds, personnel, equipment, and supplies relating to septic tank servicing under the provisions of KRS 211.972 to 211.982, which said provisions of law have been conferred upon the Department of Environmental Protection and upon the secretary and other officers and offices of the Department of Environmental Protection.

Section 507. KRS 224.46-820 is amended to read as follows:

(1) There is[~~ hereby~~] created the Kentucky Regional Integrated Waste Treatment and Disposal Facility Siting Board consisting of nine (9) permanent members and three (3) temporary members. All members shall be residents of the Commonwealth of Kentucky. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or his designated representative shall be a permanent member of the board.

(2) The other eight (8) permanent members of the board shall be appointed by the Governor. Except for initial appointments, board members shall be appointed for a term of four (4) years. Of the initial appointments, one (1) shall be appointed for

a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years, and three (3) for a term of four (4) years. Each of the members appointed by the Governor shall hold office for the term for which he was appointed and until his successor shall have been appointed and taken office in his stead or until he shall resign or be removed in a manner provided by law.

(3) The permanent membership of the board shall be composed of members having the following qualifications:

(a) Two (2) members having a demonstrated experience in hazardous waste management;

(b) Two (2) members from the Kentucky General Assembly;

(c) Two (2) members chosen from the science and engineering faculties of the institutions of higher education in Kentucky;

(d) One (1) member having demonstrated experience in industrial development planning; ***and***

(e) One (1) member representative of the general public.

(4) Three (3) temporary members of the board shall be appointed each time that an application for a certificate of environmental safety and public necessity is submitted. The temporary members of the board shall be appointed by the county judge/executive of the county in which a regional integrated waste treatment and disposal demonstration facility is proposed to be located and shall be bona fide residents of the county. The temporary members of the board shall be appointed within thirty (30) days of the declaration of intent required by KRS 224.46-825 and 224.46-830; however, failure of the appropriate appointing authority to appoint temporary members of the board within thirty (30) days shall not preclude the board from acting upon applications for certificates of environmental safety and public necessity. Temporary members of the board shall have all the rights and privileges of membership on the board while acting upon those applications for certificates for which they were appointed, but shall not participate in the transaction of other business by the board.

(5) The permanent members of the board shall choose from among their membership a chairperson of the board.

(6) Members of the board shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(7) Staff services for the board shall be provided to the extent practicable by personnel of the cabinet; however, the board may request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency and arrange by contract for governmental and nongovernmental assistance as necessary in the performance of its duties, including expenses for administrative start-up costs incidental to the organization of the board. Services provided by state and municipal agencies shall be reimbursed at cost.

(8) The cabinet shall not provide legal representation to the board. The board may enter into personal service contracts pursuant to KRS Chapter 45A to obtain legal counsel for representation on appeals to Franklin Circuit Court and in other legal matters.

(9) The board shall meet as necessary for the performance of its duties, upon the call of the chairperson or upon the request of seven (7) members of the board by delivery of written notice of the meeting to each member of the board at least five (5) days prior to the meeting.

(10) Seven (7) members of the board shall constitute a quorum for the transaction of business of the board and all actions by the board shall require the affirmative vote of seven (7) members of the board.

Section 508. KRS 224.50-836 is amended to read as follows:

(1) The cabinet shall enter into a memorandum of understanding with the Cabinet for ***Health Services***[~~Human Resources~~] in order that the county health departments be utilized to aid in the enforcement of KRS 224.50-820 to 224.50-846. The cabinet shall reimburse the county health departments for expenses incurred to carry out this program.

(2) Violations of KRS 224.50-820 to 224.50-846 shall be subject to the penalties in KRS 224.99-010(8).

Section 509. KRS 224.71-110 is amended to read as follows:

(1) The Agriculture Water Quality Authority is[~~ hereby~~] created and administratively attached to the cabinet. The authority shall be a multidiscipline peer group that shall evaluate, develop, and improve best management practices in conservation plans, compliance plans, and forest stewardship management plans; establish statewide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect waters of the Commonwealth from the adverse impacts of agriculture operations within the Commonwealth. The cabinet shall provide staff to the authority.

(2) Within six (6) months of July 15, 1994, the Soil and Water Conservation Commission shall submit to the Governor for appointment to the Agriculture Water Quality Authority a list of three (3) persons recommended by each of the following state agencies and organizations:

(a) Kentucky Association of Conservation Districts;

(b) Kentucky Department of Agriculture;

(c) University of Kentucky College of Agriculture Cooperative Extension Service;

(d) Kentucky Farm Bureau Federation, Inc.;

(e) Division of Conservation, Natural Resources and Environmental Protection Cabinet;

(f) Division of Forestry, Natural Resources and Environmental Protection Cabinet;

(g) Kentucky Geological Survey; and

(h) Environmental organizations.

The membership of the Agriculture Water Quality Authority appointed by the Governor shall consist of one (1) representative from each of the groups identified in paragraphs (a) to (h) of this subsection and three (3) members-at-large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members-at-large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the United States Soil Conservation Service and a representative from the United States Agriculture Stabilization and Conservation Service may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Natural Resources and Environmental Protection Cabinet and the Division of Environmental Health and Community Safety, Cabinet for ***Health Services***~~[Human Resources]~~ shall serve as ex officio members.

(3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:

(a) Livestock, including but not limited to, beef, swine, dairy, poultry, and equine;

(b) Crops, including but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;

(c) Pesticides, fertilizers, and other agricultural chemicals; and

(d) Farmstead issues.

(4) The Agriculture Water Quality Authority shall have the following responsibilities:

(a) Review water quality data as available;

(b) Review university research on water quality and alternative best management practices research;

(c) Evaluate the adoption and effectiveness of best management practices, and modify best management practice design standards to improve water quality protection practices;

(d) Develop by July 1, 1996, state-wide agriculture water quality plans to address identifiable water pollution problems from agriculture operations, and continue to evaluate and modify the agriculture water quality plans, as necessary to prevent water pollution from agriculture operations;

(e) Assist with the review of state-funded and other water quality monitoring data and with the establishment of agriculture water priority protection regions;

(f) Provide technical assistance to persons engaged in agriculture operations and to the Soil and Water Conservation Commission in its efforts to coordinate water quality protection as related to agriculture operations;

(g) Work with the United States Soil Conservation Service, United States Agriculture Stabilization and Conservation Service, and conservation districts to disseminate to agriculture operations the best management practices, conservation plans, compliance plans, forest stewardship management plans, and agriculture water quality plans which address the protection of groundwater and surface water;

(h) Provide the Governor and the Legislative Research Commission with biennial reports of the progress of the Agriculture Water Quality Authority program; and

(i) Establish procedures for modifications to be incorporated into state-wide or regional agriculture water quality plans.

(5) The cabinet's Division of Water shall approve or disapprove any statewide and regional water quality plan within thirty (30) days of receiving the plan from the Agriculture Water Quality Authority. All provisions of a statewide or regional water quality plan not found deficient shall be approved. If the Division of Water finds any provision of the statewide or regional agriculture water quality plan deficient, the Division of Water shall give written notice to the authority of those provisions found to be deficient. Within the thirty (30) days following the notice of deficiency, the authority shall deliver to the Division of Water a written response setting forth proposed solutions to the deficiencies. Any deficiencies which remain unresolved shall be resolved in a manner agreed to jointly by the Division of Water and the authority within sixty (60) days unless the Division of Water and authority jointly agree to an extension or alternate dispute resolution. The Division of Water shall approve or disapprove all modifications to the statewide and regional plans as set forth at KRS 224.71-120(8).

Section 510. KRS 227.560 is amended to read as follows:

(1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to dealers.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for ***Public*** Health[~~ Services~~], or their designees, and six (6) citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home dealers, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for ***Public*** Health[~~ Services~~] shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years.

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 511. KRS 227.565 is amended to read as follows:

(1) There is hereby created the Recreational Vehicle Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to dealers.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for ***Public*** Health[~~ Services~~], or their designees, and six (6) citizens of the Commonwealth appointed by the Governor, which shall include one (1) manufacturer of recreational vehicles and two (2) recreational vehicle dealers, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for ***Public*** Health[~~ Services~~] shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even numbered years. Each member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years.

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 512. KRS 243.895 is amended to read as follows:

(1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at

least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender neutral language supplied by the Cabinet for ***Health Services***[~~Human Resources~~], which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Section 513. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990, unless the context requires otherwise:

(1) "Dog" means any member of the canine family***;***[~~.~~]

(2) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog or has it in his care, or permits it to remain on or about premises owned or occupied by him***;***[~~.~~]

(3) "Veterinarian" means a licensed practitioner of veterinary medicine***;***[~~.~~]

(4) "Qualified person" means a person granted a permit by the secretary for ***health services***[~~human resources~~] to vaccinate animals against rabies and may include owners or operators of licensed kennels***; and***[~~.~~]

(5) "Vaccination" means the injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with the regulations of the secretary for ***health services***[~~human resources~~].

Section 514. KRS 258.015 is amended to read as follows:

Every owner shall have his dog initially vaccinated by the age of four (4) months and revaccinated against rabies at the expiration of the immunization period as certified by the veterinarian. The veterinarian or qualified person who vaccinates a dog shall issue to the owner thereof a vaccination certificate on a form prescribed and supplied by the Cabinet for ***Health Services***[~~Human Resources~~]. The vaccination certificate shall be prepared and issued in triplicate, one (1) copy to be retained by the issuing veterinarian or other qualified person, one (1) copy to be given to the owner of the dog vaccinated, and one (1) copy to be forwarded by the veterinarian or qualified person to the local health department, or, if none is maintained, to the Department for ***Public*** Health[~~ Services~~]. Each certificate shall bear the name and address of the veterinarian or qualified person who issued it. The veterinarian or qualified person shall also furnish each owner with a metal tag bearing a serial number and after January 1, 1980, the year of expiration of the immunization period. The tag may bear the name of the veterinarian or qualified person issuing it. It shall be affixed by the owner to a collar or harness furnished by him and shall be worn by the dog for which the certificate was issued. No one except the owner or his duly authorized agent shall remove the collar with the attached tag from the dog. Prior to their initial officially-recorded vaccination against rabies, all dogs shall be confined to the premises of the owner.

Section 515. KRS 258.035 is amended to read as follows:

Any owner who has had his dog vaccinated against rabies in another state by the proper authority therein shall not be required to have such dog revaccinated when brought into this state provided the requirements of such state under which the vaccination was made were of a standard not lower than those required in this state and provided further that such dog wears a tag affixed to his collar or harness bearing the date of such vaccination. One (1) year after the date of such vaccination such dog must be revaccinated unless provided otherwise by the rules and regulations of the secretary for ***health services***[~~human resources~~]. The secretary for ***health services***[~~human resources~~] may make rules and regulations governing the matter of reciprocity with other states.

Section 516. KRS 258.043 is amended to read as follows:

(1) Whenever a local board of health determines or is notified by the Cabinet for ***Health Services***[~~Human Resources~~] that the rabies immunization level among dogs is low in the county or any portion thereof, the local health department shall sponsor mass immunization clinics at strategic locations and intervals throughout the area designated. The local health department shall contract with local veterinarians to administer the vaccine. If the services of veterinarians are not available in the area, the local health department may contract with other veterinarians or qualified persons designated by the Cabinet for ***Health Services***[~~Human Resources~~]. A reasonable fee, not to exceed five dollars ($5), designated by the local board of health may be collected from each owner to help defray the cost of the clinic program.

(2) Vaccination and licensing procedures may be jointly conducted at the clinics.

(3) No owner shall be required to have his dog vaccinated at a public clinic if he elects to have his dog vaccinated privately by a veterinarian of his choice.

Section 517. KRS 258.055 is amended to read as follows:

Whenever a local board of health has reason to believe or has been notified by the Cabinet for ***Health Services***[~~Human Resources~~] that there is danger that rabies may spread within the county or any portion thereof, the board shall publish a notice requiring owners of dogs or other specified animals in the area designated to confine the animals for such periods as may be necessary to prevent the spread of rabies. If it is deemed advisable in the interest of public health, the local board of health shall order all dogs in the area revaccinated against rabies, and if the local board fails or neglects to do so, the Cabinet for ***Health Services***~~[Human Resources]~~ may order the revaccination of all dogs or other animals in the area except animals that have been previously vaccinated within the past six (6) months under the provisions of KRS 258.005 to 258.085. The Cabinet for ***Health Services***~~[Human Resources]~~ may aid the local health department in the execution of such emergency vaccinations.

Section 518. KRS 258.075 is amended to read as follows:

The secretary for ***health services***~~[human resources]~~ may administer the provisions of KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990 through the local health departments and may make such rules and regulations and employ such personnel as are necessary to effectuate the purposes of KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990.

Section 519. KRS 258.085 is amended to read as follows:

A health officer or his agent shall have the authority to quarantine for a period not to exceed one hundred eighty (180) days any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed ten (10) days any animal which has bitten a human being or which exhibits symptoms of rabies. An animal so quarantined may be confined by the health officer at a designated place at the owner's expense. Whenever a dog dies with rabies or is suspected of having died with rabies or is destroyed because of having been suspected of being rabid, the owner thereof, whether the dog had been previously quarantined or not, shall at his own expense send the head of such dog to a laboratory approved by the secretary for ***health services***~~[human resources]~~ in the manner prescribed by the rules and regulations of the secretary for ***health services***~~[human resources]~~.

Section 520. KRS 258.365 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit or limit the right of any city to pass or enforce any ordinance with respect to the regulation of dogs, the provisions of which are not inconsistent with the provisions of this chapter. Nothing in this chapter shall be construed to repeal any of the provisions of the fish and game laws of the Commonwealth of Kentucky now in effect, nor any laws relating to the powers and duties of the secretary for ***health services***~~[human resources]~~, or any health officer relating to mad dogs or dogs affected with any disease, or to prohibit the destroying of licensed or unlicensed dogs in accordance with the provisions of any quarantine regulations, made in accordance with the provisions of any local or state health law.

Section 521. KRS 304.12-013 is amended to read as follows:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after July 13, 1990.

(2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.

(3) As used in this section:

(a) "Human immunodeficiency virus (HIV)" means the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus.

(b) "Insurance contract" means a contract issued by an insurer as defined in this section; and

(c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.

(4) (a) In the underwriting of an insurance contract regarding human immunodeficiency virus infection and health conditions derived from such infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration recommended test indicates the existence or possible existence of human immunodeficiency virus infection or a health condition related to the human immunodeficiency virus infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration recommended test protocol and shall utilize any applicable Centers for Disease Control or Food and Drug Administration recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for ***Health Services***~~[Human Resources]~~. The notification shall include:

1. Face-to-face post test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;
2. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;
3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and
4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3 of this paragraph.

(d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.

(e) An insurer may ask whether an applicant for an insurance contract has been tested positive for human immunodeficiency virus infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for human immunodeficiency virus infection or for a health condition derived from such infection.

(f) Insurers shall maintain strict confidentiality of the results of tests for human immunodeficiency virus infection or a specific health condition derived from human immunodeficiency virus infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;
2. A licensed physician or other person designated by the applicant;
3. An insurance medical information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to human immunodeficiency virus infection;
4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;
5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;
6. To insurer personnel who have the responsibility to make underwriting decisions; and
7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.

(g) Insurers shall use for the processing of human immunodeficiency virus related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control.

(5) (a) An insurance contract shall not exclude coverage for human immunodeficiency virus infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to human immunodeficiency virus infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, 304.38-050, and 304.43-030.

(b) A health insurance contract shall not be canceled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for human immunodeficiency virus infection.

(c) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the human immunodeficiency virus infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.

(d) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

Section 522. KRS 304.17-412 is amended to read as follows:

(1) Every health insurer proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***[~~Human Resources~~] under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The insurer is in compliance with subsection (1) of this section.

Section 523. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281***;***[~~.~~]

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020***;***[~~.~~]

(3) "Alliance member" means both mandatory and voluntary alliance members***;***[~~.~~]

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices***;***[~~.~~]

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees***;***[~~.~~]

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board***;***[~~.~~]

(8) "Consumer" means an individual user of health care services***;***[~~.~~]

(9) "Department" means the Kentucky Department of Insurance***;***[~~.~~]

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision***;***[~~.~~]

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A***;***[~~.~~]

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky***;***[~~.~~]

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student

health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department***;***~~[.]~~

(14) "Health status" means an assessment of an individual's mental and physical condition***;***~~[.]~~

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care***;***~~[.]~~

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans***;***~~[.]~~

(17) (a) "Mandatory alliance member" means:

1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;

2. Elected and salaried employees of local school districts;

3. Employees of local and district health departments;

4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and

5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:

a. The Cabinet for ***Health Services***~~[Human Resources]~~ determines enrolling Medicaid recipients in the alliance to be practicable; and

b. Necessary waivers are obtained by the Cabinet for ***Health Services***~~[Human Resources]~~ from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.

(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994***;***~~[.]~~

(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract***;***~~[.]~~

(18) "Medical outcomes" means a change in an individual's health status after the provision of health services***;***~~[.]~~

(19) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals***;***~~[.]~~

(20) "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals***;***~~[.]~~

(21) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees***;***~~[.]~~

(22) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms***; and***~~[.]~~

(23) "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts.

Section 524. KRS 304.17A-160 is amended to read as follows:

(1) The department shall define five (5) standard health benefit plans, one (1) of which shall be a basic benefit plan and one (1) of which shall provide coverage exactly comparable to the coverage provided under Kentucky Kare Standard as of January 1, 1994. All standard health benefit plans defined by the Kentucky Health Policy Board prior to July 15, 1996, shall continue as standard health benefit plans until the department amends or replaces the existing standard health benefit plans. The department may approve additional standard benefit plans pursuant to KRS 304.17A-080.

(2) Notwithstanding any other provision of this chapter to the contrary, on and after July 15, 1995:

(a) No insurer doing business in Kentucky shall issue or renew health benefit plans other than the standard health benefit plans established by the department and the supplemental plans approved by the department pursuant to paragraph (c) of this subsection except as provided in paragraph (f) of this subsection, and any of the standard health benefit plans and supplemental plans offered shall be offered on a guaranteed-issue basis to any applicant who has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy;

(b) Every insurer shall, as a condition of transacting business in this state, offer and issue the basic health benefit plan on a guaranteed-issue basis;

(c) Each insurer may offer supplemental policies that are approved by the department and that are advertised, marketed, and designed as a supplement to the standard health benefit plans. No benefits paid under the supplemental policies shall duplicate benefits paid under the standard health benefit plans.

(d) An insurer may elect to offer health benefit plans only to individuals and groups that purchase coverage through the Kentucky Health Purchasing Alliance and not offer coverage to individuals and groups that purchase coverage outside the alliance;

(e) No insurer shall exclude any eligible person or dependent, who would otherwise be covered under a group health benefit plan, on the basis of an actual or expected health condition of the person; and

(f) Any person or group covered on July 15, 1996, by a health benefit plan which is not a standard plan may, until the date twelve (12) months after July 15, 1996, elect to renew the current coverage as long as the benefits provided remain exactly the same and renewal is guaranteed.

(3) Each of the standard and supplemental health benefit plans shall be in two (2) forms, one (1) of which shall be in the form of insurance and the second of which shall be consistent with the basic method of operation and benefit plans of health maintenance organizations, including federally-qualified health maintenance organizations or integrated health networks. Each of the standard and supplemental plans shall provide for two (2) levels of cost sharing. The department and the Health Insurance Advisory Council shall take into consideration the levels of benefits provided in health benefit plans in Kentucky and appropriate medical and economic factors. The plans shall include cost containment features, such as utilization review of health care services, including review of medical necessity of hospital and physician services; hospice care at least equal to the Medicare benefits; case management benefit alternatives; selective contracting with hospitals, physicians, and other health care providers; reasonable benefit differentials applicable to participating and nonparticipating providers; and other managed care provisions. If a standard or supplemental health benefit plan issued by an insurer covers services which the plan's beneficiaries lawfully obtain from health departments established pursuant to KRS Chapter 212 in medically-underserved areas designated by the Cabinet for ***Health Services***~~[Human Resources]~~, that insurer shall pay the plan's established rate for those services to the health department.

(4) All policies and contracts providing health care benefits issued or renewed on or after July 15, 1995, except as provided in paragraph (f) of subsection (2) of this section, shall be uniform in structure, language, designation, and format to the standard benefit plans defined by the department or shall be a supplemental plan based on a standard plan, and shall be filed with and approved by the department before being delivered or issued for delivery in Kentucky.

(5) The department shall inform residents of Kentucky of the existence and provisions of the standard benefit plans. The department shall develop an outline and chart of coverage that describes the features of each of the standard benefit plans available in Kentucky. The department shall broadly publicize a twenty-four (24) hour toll-free telephone number for information on health care benefit plans available in Kentucky.

(6) Any insurer that between July 15, 1994, and July 15, 1995, knowingly and willfully terminates coverage of any insured or dependent solely because the insured is eligible for coverage through a health purchasing alliance shall be prohibited from issuing or delivering any health benefit plan in the Commonwealth for a period of five (5) years from the date of

exclusion.

(7) All standard health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(8) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

Section 525. KRS 304.18-045 is amended to read as follows:

(1) Every health insurer proposing to issue or deliver in this state a group or blanket health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***~~[Human Resources]~~ under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The insurer is in compliance with subsection (1) of this section.

Section 526. KRS 304.32-147 is amended to read as follows:

(1) Every nonprofit hospital, medical-surgical, dental, and health service corporation proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, a nonprofit hospital, medical-surgical, dental, and health service corporation shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***~~[Human Resources]~~ under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The nonprofit hospital, medical-surgical, dental, and health service corporation is in compliance with subsection (1) of this section.

Section 527. KRS 304.38-225 is amended to read as follows:

(1) Every health maintenance organization in this state which provides coverage of hospital benefits and requires the utilization review of such benefits or administers a health benefit program which provides for the coverage of hospital benefits and requires the utilization review of such benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, a health maintenance organization shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***~~[Human Resources]~~ under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The health maintenance organization is in compliance with subsection (1) of this section.

Section 528. KRS 311.131 is amended to read as follows:

As used in KRS 311.131 to 311.139:

(1) "Utilization review" means a set of techniques used by or on behalf of purchasers of health benefits to manage health care costs by influencing patient care decision making through case-by-case assessments of the appropriateness of care prior to its provision;

(2) "Private review agent" means a nonhospital-affiliated person or entity that contracts to provide utilization review for:

(a) An employer who provides health insurance benefits; or

(b) A third party payer that provides or administers hospital and medical benefits to citizens of this state, including a health maintenance organization, a health insurer, nonprofit health service plan, health insurance service organization, or preferred provider organization or other entity offering health insurance policies, contracts, or benefits in this Commonwealth;

(3) "Utilization review plan" means a description of the utilization review procedures of a private review agent;

(4) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~]; and

(5) "Certificate" means a certificate of registration granted by the Cabinet for ***Health Services***[~~Human Resources~~] to a private review agent.

Section 529. KRS 311.132 is amended to read as follows:

(1) A private review agent which approves or disapproves payment or the rendering of services, or both, or who recommends approval or denial of payment for hospital or medical services or whose review results in approval or denial of payment for hospital or medical services on a case-by-case basis shall not conduct utilization review in this state unless the Cabinet for ***Health Services***[~~Human Resources~~] has granted the private review agent a certificate.

(2) (a) The cabinet may waive the requirements of KRS 311.131 to 311.139 for the activities of a private review agent in connection with a contract with the federal government for utilization review of patients eligible for hospital and medical services under the Social Security Act.

(b) No certificate is required for those private review agents conducting general in-house utilization review for hospitals, home health agencies, preferred provider organizations, or other managed care entities, clinics, private offices or any other health facility or entity, so long as the review does not result in the approval or denial of payment for hospital or medical services for a particular case. The general in-house utilization review shall be exempt from the provisions of KRS 311.131 to 311.139.

(c) No certificate shall be required for utilization review by any licensed pharmacist or pharmacy, organizations of either, while engaged in the practice of pharmacy, including, but not limited to, dispensing of drugs, participation in drug utilization reviews, and monitoring patient drug therapy.

(d) The cabinet shall waive the requirements of KRS 311.135 except for the application fee for the activities of a private review agent, certified under the law of another state, where the certification procedures of the other state are at least as stringent as those of KRS 311.135.

(3) A certificate issued under the provisions of KRS 311.131 to 311.139 shall not be transferable.

Section 530. KRS 311.133 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall adopt regulations to implement the provisions of KRS 311.131 to 311.139.

(2) Any information required by the cabinet with respect to customers, patients, or utilization review procedures of a private review agent shall be held in confidence and not disclosed to the public.

(3) The cabinet may establish reporting requirements to:

(a) Evaluate the effectiveness of private review agents; and

(b) Determine if the utilization review programs are in compliance with the provisions of KRS 311.131 to 311.139 and applicable regulations.

Section 531. KRS 311.241 is amended to read as follows:

(1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a condition of licensure, establish an organ procurement for transplant protocol, in consultation with a federally-certified organ procurement organization, which encourages organ donation and identifies potential organ donors.

(2) When an individual has died or has been identified by a medical hospital staff member as having a terminal condition and is further identified as a potential organ donor and meets the criteria set forth in the hospital's organ procurement for transplant protocol, the hospital administrator or his official designee shall then notify the federally-certified organ

procurement organization of the potential availability of the organ. The notification of the federally certified organ procurement organization as to the identity of a potential organ donor shall be documented in such patient's medical record. Any identified contraindication to organ donation shall be documented in the patient's medical record.

(3) Any hospital licensed under the provisions of KRS Chapter 216B which performs any transplantable organ transplant shall report to the Cabinet for ***Health Services***[~~Human Resources~~], Office of the Inspector General, any information relating to the possible sale, purchase, or brokering of a transplantable organ.

Section 532. KRS 311.250 is amended to read as follows:

No itinerant medical company of two (2) or more persons shall travel as a troupe or company as vendors of any drug, nostrum, or instrument intended for the treatment of any disease or injury, or by any writing or printing profess to the public to treat disease or deformity by the use of any drug, nostrum, or instrument without first obtaining a license from the secretary for ***health services***[~~human resources~~]. The fee for such license shall be one hundred dollars ($100) per month. The secretary shall issue licenses to reputable and worthy applicants upon payment of the fee each month, but may for sufficient cause refuse to issue such license.

Section 533. KRS 311.378 is amended to read as follows:

(1) All physicians licensed pursuant to this chapter who maintain a private office shall post in a prominent place in the patient waiting room a printed sign supplied by the Cabinet for ***Health Services***[~~Human Resources~~] that is at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high and with gender neutral language, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) Any person who violates the provisions of subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Section 534. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the State Board of Medical Licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the State Board of Health. The offices of the board shall be maintained at such place as is designated by the board. The board shall consist of thirteen (13) members, including the commissioner of ***public*** health[~~ services~~], the dean of the University of Kentucky College of Medicine, the dean of the University of Louisville School of Medicine and ten (10) members appointed by the Governor. One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. Seven (7) members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. Two (2) members shall be citizens at large who are representatives of any recognized consumer advocacy groups with an interest in the delivery of health care and are not associated with or financially interested in the practice or business regulated.

Section 535. KRS 311.535 is amended to read as follows:

The appointed members of the State Board of Medical Licensure shall hold office for terms of four (4) years and until their successors are appointed and qualify. The commissioner of ***public*** health[~~ services~~] and the deans of the medical schools shall hold office only while holding their respective titles. All appointed members who held office as of January 1, 1986, shall continue to hold office until the expiration of their respective terms. The terms of all appointed members of the board shall expire on August 31 of the last year of their respective terms.

Section 536. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis,

treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for ***Health Services***~~[Human Resources]~~, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for ***Health Services***~~[Human Resources]~~ by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding; and

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 537. KRS 311.623 is amended to read as follows:

(1) An adult with decisional capacity may make a written living will directive that does any or all of the following:

(a) Directs the withholding or withdrawal of life-prolonging treatment; or

(b) Directs the withholding or withdrawal of artificially provided nutrition or hydration; or

(c) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise.

(2) Except as provided in KRS 311.633, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

(3) For purposes of KRS 311.621 to 311.643, notification to any emergency medical responder as defined by KRS Chapter 211 or any paramedic as defined by KRS Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized only if on a standard form or identification approved by the Kentucky Board of Medical Licensure, in consultation with the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 538. KRS 311.653 is amended to read as follows:

The Board of Medical Licensure shall, by regulation, require an applicant for certification as a paramedic to have completed a Cabinet for ***Health Services***~~[Human Resources]~~ approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 539. KRS 311.654 is amended to read as follows:

(1) The Board of Medical Licensure shall promulgate administrative regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and certification of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

(2) Any continuing education required by the Board of Medical Licensure shall include a Cabinet for ***Health Services***~~[Human Resources]~~ approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

(3) The Kentucky Board of Medical Licensure shall enter into an agreement with the Cabinet for ***Health Services***~~[Human Resources]~~ whereby the cabinet's lead agency for emergency medical services shall carry out the day-to-day administration of this section under administrative regulations promulgated by the Board of Medical Licensure. The

Kentucky Emergency Medical Services Council will provide advice and recommendations to the Kentucky Board of Medical Licensure related to the provisions of KRS 311.650 to 311.658.

Section 540. KRS 311.720 is amended to read as follows:

As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death***;***[~~.~~]

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216***;***[~~.~~]

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for ***health services;***[~~human resources.~~]

(4) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~] of the Commonwealth of Kentucky***;***[~~.~~]

(5) "Fetus" shall mean a human being from fertilization until birth***;***[~~.~~]

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death***;***[~~.~~]

(7) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter***;***[~~.~~]

(8) "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother***; and***[~~.~~]

(9) "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

Section 541. KRS 311.732 is amended to read as follows:

(1) For purposes of this section the following definitions shall apply:

(a) "Minor" means any person under the age of eighteen (18);

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

(c) "Abortion" means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:

(a) The attending physician or his agent secured the informed written consent of the minor and one (1) parent or legal guardian;

(b) The minor is emancipated and the attending physician or his agent has received the informed written consent of the minor; or

(c) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.

(4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

(a) Granting the petition for an abortion if the court finds that the minor is mature and well-informed enough to make the abortion decision on her own;

(b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or

(c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the Cabinet for ***Health Services***~~[Human Resources]~~ on a form supplied by the cabinet. This report shall be confidential.

(10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

Section 542. KRS 311.908 is amended to read as follows:

(1) The Board of Medical Licensure is hereby authorized to certify athletic trainers consistent with the provisions of KRS 311.902 to 311.928 and to adopt rules and regulations necessary for the performance of its duties.

(2) The board shall prescribe application forms for certification.

(3) The board shall establish guidelines for athletic trainers in the state and conduct a certification examination based on recommendations of the council.

(4) The board shall require, as a part of any continuing education requirement, persons certified as athletic trainers to complete a Cabinet for ***Health Services***~~[Human Resources]~~ approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 543. KRS 311.935 is amended to read as follows:

(1) No later than one (1) year after July 13, 1984, the McDowell Cancer Network, Inc. and the James Graham Brown Cancer Center shall jointly develop and submit to the Cabinet for ***Health Services***~~[Human Resources]~~ and may periodically update a standardized written summary, in layman's language and in language understood by the patient, of the advantages, disadvantages, risks and descriptions of all medically efficacious and viable alternatives for the treatment of breast cancer.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~, within ninety (90) days of receipt of the summary, shall print and make available to all licensed physicians in the Commonwealth sufficient copies of the standardized written summary for distribution by such physicians to their patients.

(3) Upon receipt of the summary, any physician licensed under the laws of the Commonwealth who treats a patient for any form of breast cancer shall provide the patient with a standardized written summary, as provided under this section, informing the patient of medically efficacious and viable alternative methods of treatment for breast cancer which may include surgical, radiological or chemotherapeutic treatment or combinations thereof.

Section 544. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which

may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for ***Health Services***[~~Human Resources~~], in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to

311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.

(27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 545. KRS 311.991 is amended to read as follows:

Any person who manufactures, distributes, sells, or prescribes amygdalin (laetrile) in violation of the standards established by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall be punished by a fine of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), or by imprisonment in the county jail for a period not to exceed six (6) months, or both. Each day of violation shall constitute a separate offense.

Section 546. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

  (a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

  (b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

  (c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

  (d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for ***Public*** Health~~[Services]~~ of the Cabinet for ***Health Services***~~[Human Resources]~~ or the commissioner's designee; the chair of the Council on Postsecondary Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 547. KRS 315.035 is amended to read as follows:

(1) No person shall operate a pharmacy without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars ($250).

(2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars ($250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.

(3) A separate permit to operate shall be required for each pharmacy.

(4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars ($250) nor to increase more than twenty-five dollars ($25) per year. An additional fee not to exceed the annual renewal fee may be assessed as a penalty for failure to renew by August 1 of each year.

(5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.

(6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for ***Health Services***~~[Human Resources]~~ or a local health department.

Section 548. KRS 315.121 is amended to read as follows:

(1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:
  (a) Unprofessional or unethical conduct;
  (b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;
  (c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more or the following:
    1. A felony;
    2. An act involving moral turpitude or gross immorality; or
    3. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;
  (d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;
  (e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;
  (f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;
  (g) Engaging in or aiding and abetting an individual to engage in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," or other term which might imply that the individual is a pharmacist or pharmacist intern;
  (h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;
  (i) Violation of any order issued by the board to comply with any applicable law or administrative regulation; or
  (j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board.

(2) Unprofessional or unethical conduct includes, but is not limited to, the following acts of a pharmacist or pharmacist intern:

(a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;

(b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:

1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;

2. Certified or licensed health care personnel who are responsible for care of the patient;

3. Designated agents of the Cabinet for ***Health Services***[~~Human Resources~~] for the purposes of enforcing the provisions of KRS Chapter 218A;

4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or

5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

(c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist or pharmacy intern knows or should have known of their intended use in illegal activities;

(d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;

(e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

(f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;

(g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;

(h) Obtaining any remuneration by fraud, misrepresentation, or deception; or

(i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care.

(3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.

(4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.

(5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.

Section 549. KRS 317.440 is amended to read as follows:

(1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit or fraud in the practice or teaching of barbering, the barber board shall prescribe reasonable rules and regulations:

(a) Governing the location and housing of barber shops or schools;

(b) Governing the quantity and quality of equipment, supplies, materials, records and furnishings required in barber shops or schools;

(c) Governing the training and supervision of barber apprentices;

(d) Governing the qualifications of teachers of barbering;

(e) Governing the hours and courses of instruction at barber schools;

(f) Governing the examinations of applicants for barber, apprentice barber or teacher of barbering.

(2) Regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for ***health services***[~~human resources~~] before becoming effective.

Section 550. KRS 318.134 is amended to read as follows:

(1) No person, firm, or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department through a duly-authorized inspector, employee, or agent, finds that the plumbing was not constructed, installed, or altered in accordance with such permit and the Kentucky State Plumbing Code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location, and construction of the water supply system to be used. If an on-site sewage disposal system that does not have a surface discharge is proposed, a valid on-site sewage disposal permit issued by the Cabinet for ***Health Services***[~~Human Resources~~] or its designated agent shall accompany the application.

(3) The department shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The department shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation, or alteration of plumbing in public buildings.

Section 551. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the department, no person shall construct, install, or extensively alter any plumbing, sewerage or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, or some other type of on-site sewage disposal system that does not have a surface discharge, the application for construction, installation, or alteration of such system shall be submitted to the Cabinet for ***Health Services***[~~Human Resources~~] or its designated agent. All other plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation, or alteration shall be done in accordance with the approved plans.

Section 552. KRS 333.020 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise, the following terms shall have the meanings set forth below:

(1) "Person" means any individual, firm, partnership, association, corporation, municipality, political subdivision, or any other entity whether organized for profit or not***;***[~~.~~]

(2) "Cabinet" means the [~~"~~]Cabinet for ***Health Services;***[~~Human Resources."~~]

(3) "Medical laboratory" means any institution, building, place or any other facility in which operations and procedures for the microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological, pathological or other methods of examination of tissues including blood, secretions and excretions of the human body are performed to obtain information in diagnosing, preventing or treating disease, or in which the results of any examination, determination or test are used as a basis for health advice. These activities include the diagnosis and identification of disease by the examination of tissues removed by surgery and also the determination of cause of death by the examination of tissues removed at autopsy. The term "clinical laboratory" shall be deemed synonymous with the term "medical laboratory," and includes laboratories operated and maintained exclusively for teaching purposes***;***[~~.~~]

(4) "Medical laboratory director" means the individual who is responsible for the administrative, scientific and technical operation of the medical laboratory, including supervision of laboratory procedures, reporting of findings, and active participation to such extent as may be necessary to assure compliance with the law. He shall be responsible for the proper performance of all work in the laboratory and shall direct, supervise and be responsible for the work of subordinates***;***[~~.~~]

(5) "Medical laboratory supervisor" means an individual who, under the general supervision of a medical laboratory director, supervises technical personnel, performs tests requiring special scientific skills, experience and educational background, and, in the absence of the director, is held responsible for the proper performance of all medical laboratory procedures and the reporting of results***;***[~~.~~]

(6) "Medical laboratory technologist" means an individual who performs tests which require the exercise of independent judgment and responsibility, with minimal supervision by the director or supervisor, in only those specialties or subspecialties in which they are qualified by education, training, and experience***;***[~~.~~]

(7) "Medical laboratory technician" means any individual other than the medical laboratory director, supervisor, technologist, or trainee who functions under the supervision of a medical laboratory director, supervisor, or technologist and performs only those medical laboratory procedures which require limited skill, responsibility, and a minimal exercise of independent judgment***;***[~~.~~]

(8) "Medical laboratory trainee" means any individual in a medical laboratory who is seeking training and experience which, combined with the appropriate educational background, will qualify that person for employment as a "medical

technologist" or "medical laboratory technician." Trainees may perform procedures under the direct supervision of the laboratory director, supervisor, or medical technologist***;***[~~.~~]

(9) "Medical laboratory personnel" includes the medical laboratory director, supervisor, technologist or technician, but does not include medical laboratory assistants, trainees, or other individuals employed by a medical laboratory to perform clerical or other administrative responsibilities***;***[~~.~~]

(10) "Medical laboratory evaluation program" means a program for evaluating the proficiency of medical laboratories by the cabinet***; and***[~~.~~]

(11) "Medical laboratory advisory committee" shall mean a group of consultants appointed by the secretary for ***health services***[~~human resources~~] or his designee to advise the cabinet on matters relating to the regulation of medical laboratories.

Section 553. KRS 333.040 is amended to read as follows:

This chapter applies to all medical laboratories within the State of Kentucky, except:

(1) Medical laboratories operated by the United States government;

(2) Medical laboratories operated by a licensed physician, or a group of licensed physicians, solely and exclusively in connection with the diagnosis and treatment of their own patients; if any referred work is received or performed by such medical laboratories, all provisions of this chapter shall apply;

(3) Medical laboratories operated by hospitals licensed by the secretary for ***health services***[~~human resources~~];

(4) Medical laboratories operated and maintained exclusively for research purposes, involving no patient or public health service whatsoever.

Section 554. KRS 333.220 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] shall appoint an advisory committee to advise the cabinet in the fulfillment of its responsibilities under this chapter. The committee shall be composed of nine (9) appointed members. The secretary for ***health services***[~~human resources~~] or his designated representative shall be an ex officio member. All appointed members shall serve for a term of four (4) years or until their successors are appointed and qualified. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky Hospital Association. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky State Society of American Medical Technologists. Two (2) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky State Society of Medical Technologists. Five (5) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky Medical Association, provided, however, that at least three (3) of such positions shall be filled only by pathologists who are directors of medical laboratories, and who have been recommended to the Kentucky Medical Association by the Kentucky Society of Pathologists.

Section 555. KRS 334.140 is amended to read as follows:

(1) There is[~~ hereby~~] created the "Kentucky Licensing Board for Specialists in Hearing Instruments".

(2) The board shall be composed of nine (9) members who shall be appointed by the Governor. Terms of office shall be at the Governor's discretion, not to exceed four years. All terms shall expire on July 31 of the designated year. Each member shall serve for the term of his appointment and until his successor has been appointed and qualified. If a vacancy occurs on the board, a new member shall be appointed to serve out the unexpired term. No member shall serve consecutive terms on the board. Upon recommendation of the board, the Governor may remove any member of the board for excessive absenteeism, neglect of duty, or malfeasance in office.

(3) Five (5) members shall be specialists in hearing instruments licensed under KRS 334.080. The appointees shall have at least five (5) years' relevant experience. The Governor shall consider nominations from the Hearing Aid Association of Kentucky. No two (2) members from the same place of business may serve on the board at the same time.

(4) One (1) member shall be a physician licensed to practice medicine in Kentucky and specializing in otology or otolaryngology.

(5) One (1) member shall be an audiologist holding at least a master's degree from a recognized college or university and having the certification of clinical competence in audiology from the American Speech-Language-Hearing Association and licensed under KRS Chapter 334A.

(6) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(7) One (1) member shall be the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or his designee.

(8) Five (5) members of the nine (9) members of the board, when properly convened, may conduct the business of the board.

Section 556. KRS 336.090 is amended to read as follows:

(1) The department shall be furnished with a copy of all the laws and rulings of the secretary for ***health services***[~~human resources~~] affecting sanitary conditions in places of employment, not covered by the labor laws of the state, and shall report in writing to the state, county, or city health authorities any violations coming under the observation of its

inspectors while visiting places of employment in the regular performance of their duty.

(2) The inspectors shall be furnished with a copy of all the laws and rulings of the Department of Housing, Buildings and Construction relating to fire hazards in places of employment, and shall report in writing to the state, county, or city authorities any violations coming under their observation while visiting places of employment in the regular performance of their duty.

Section 557. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;
2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
3. Any individual employed by the United States;
4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
7. Any individual employed as a babysitter in employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
8. Any individual engaged in the delivery of newspapers to the consumer;
9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of the Department of Personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;
10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; or
11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for ***Families and Children***~~[Human Resources]~~ under KRS 199.640 to 199.670.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly-owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 558. KRS 337.285 is amended to read as follows:

No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. This provision does not apply to employees of retail stores engaged in work connected with selling, purchasing and distributing merchandise, wares, goods, articles or commodities or to employees of restaurant, hotel and motel operations, to employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(10) and 213(b)(17) of Title 29, U.S.C. or to employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for ***Health Services***[~~Human Resources~~] under KRS 199.640 to 199.670.

Section 559. KRS 338.041 is amended to read as follows:

(1) There is hereby created in the Department of Workplace Standards a Program for Occupational Safety and Health. This program shall consist of a Division of Occupational Safety and Health Compliance and a Division of Education and Training for Occupational Safety and Health. This program shall administer all matters pertaining to occupational safety

and occupational health and shall be under the supervision of an occupational safety and health coordinator. The secretary of the Labor Cabinet shall appoint the occupational safety and health coordinator.

(2) The Department of Workplace Standards may require the assistance of other state agencies and may enter into agreements with other state agencies and political subdivisions of the Commonwealth for the administration of this chapter.

(3) The Department of Workplace Standards may enter into an agreement with the Cabinet for ***Health Services***~~[Human Resources]~~ and other appropriate departments or agencies to conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems in the administration of this chapter.

Section 560. KRS 339.230 is amended to read as follows:

A minor who has passed his fourteenth birthday but is under eighteen (18) years of age may be employed, permitted or suffered to work in, about or in connection with any gainful occupation, except:

(1) If he is under sixteen (16) years of age, he may not be employed during regular school hours, unless:

(a) The school authorities have made arrangements for him to attend school at other than the regular hours, in which event he may be employed subject to regulations of the commissioner of workplace standards during such of the regular school hours as he is not required to be in attendance under the arrangement; or,

(b) He has graduated from high school.

(2) A minor who has passed his fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted or suffered to work:

(a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety or welfare of such minor;

(b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he make them less restrictive;

(c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive; and

(d) In, about or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage Control Board (except he may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.

(3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety or welfare of minors. He may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall consist of a representative from the Cabinet for ***Health Services***~~[Human Resources]~~, the Department of Education, the Kentucky Commission on Human Rights and the Department of Personnel. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

Section 561. KRS 340.010 is amended to read as follows:

As used in KRS 340.020 to 340.070, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Workforce Development***~~[Human Resources]~~;

(2) "Employment" means any service rendered, or to be rendered, or any engagement undertaken for remuneration;

(3) "Employment agency" means any person or organization that offers or agrees to furnish or assist in furnishing employment, engagements for help, information, or service concerning or purporting to effect employment, except that it does not include bona fide educational, religious, charitable, fraternal, or benevolent organizations in which no charge is

made for service rendered other than the ordinary membership dues and assessments for their members, bona fide labor organizations undertaking to secure employment for their members, bona fide employers' organizations undertaking to secure labor for their own members without cost to the applicant employees, teachers' agencies finding positions for schoolteachers only, nurses' registries or agencies operated in conjunction with a bona fide educational institution, temporary help agencies;

(4) "Hire" means any compensation, service, or benefit exacted, or accepted, or any gratuity received in connection with any act of any employment agency or in connection with, any transaction concerning any employment agency; and

(5) "Secretary" means the secretary of the Cabinet for ***Workforce Development***~~[Human Resources]~~.

Section 562. KRS 340.070 is amended to read as follows:

(1) The cabinet shall have exclusive jurisdiction over the administration and enforcement of KRS 340.010 to 340.070.

(2) The cabinet shall inspect the offices and places of business of employment agencies and shall have access to all files and records of employment agencies.

(3) The secretary for ***workforce development***~~[human resources]~~ may promulgate any administrative regulations necessary to effectuate the purposes of this chapter.

(4) Any administrative hearing conducted pursuant to KRS 340.010 to 340.070 shall be conducted in accordance with KRS Chapter 13B.

Section 563. KRS 341.067 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Hospital" means an institution which has been licensed, certified or approved by the secretary for ***health services***~~[human resources]~~ as a hospital***;***~~[.]~~

(2) "Institution of higher education" means an educational institution which:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution***;***~~[.]~~

(3) Notwithstanding any of the foregoing provisions of this section, all recognized colleges and universities in this state are institutions of higher education for purposes of this chapter***; and***~~[.]~~

(4) (a) "Educational institution," including an institution of higher education as defined in subsection (2) of this section, means:

1. A school in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);

2. It is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school; and

3. The courses of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(b) In any particular case, the question of whether or not an institution is an educational institution within the meaning of the criteria described above will depend on what that particular institution actually does.

Section 564. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) Except in so far as the Cabinet for Workforce Development by regulation prescribes the equivalent thereof to meet particular conditions:

(a) "Calendar year" means a year beginning on January 1; and

(b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1***;***~~[.]~~

(2) "Week" means such period of seven (7) consecutive calendar days as the Cabinet for ***Workforce Development***~~[Human Resources]~~ by regulation prescribes***; and***~~[.]~~

(3) ~~[The term]~~"Week of unemployment" means any period of seven (7) consecutive days, as prescribed by Cabinet for Workforce Development regulations, during which a worker performed less than full-time work and earned less than an

amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

Section 565. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically-recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 566. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 567. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for ***Health Services***~~[Human Resources]~~ and the Education, Arts, and Humanities Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 568. KRS 347.050 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~, the Education, Arts, and Humanities Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 569. KRS 347.060 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~, the Education, Arts, and Humanities Cabinet and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 570. KRS 363.840 is amended to read as follows:

Nothing contained in KRS 363.510 to 363.850 shall be construed as amending, repealing or superseding any provision of KRS 217.005 to 217.215 (the Kentucky Food, Drug and Cosmetic Act) or the regulations adopted thereunder by the secretary for ***health services***~~[human resources]~~.

Section 571. KRS 365.425 is amended to read as follows:

No application for a going out of business sale shall be accepted by the county clerk if the sale involves foods or drugs damaged by fire or other casualty unless the approval of the Cabinet for ***Health Services***~~[Human Resources]~~ has first been obtained.

Section 572. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A telephone call to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment

opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;

2. That the recipient will receive a prize or gift if the recipient calls the merchant; or

3. That if the recipient buys one (1) or more items from the merchant, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call made by any of the following:

1. A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;

2. A broker-dealer, agent, or investment adviser properly registered under the provisions of KRS Chapter 292;

3. An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;

4. An employment agency that has obtained a current permit from the Cabinet for ***Workforce Development***[~~Human Resources~~] under the provisions of KRS Chapter 340;

5. A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;

6. A merchant or the merchant's affiliate or authorized agent, when the merchant is regulated by the Public Service Commission;

7. A merchant soliciting the sale of food costing less than one hundred dollars ($100) to each address;

8. A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;

9. The solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

10. Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;

11. A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;

12. A merchant or the merchant's affiliate or authorized agent when the merchant is subject to the control or licensure regulations of the Federal Communications Commission;

13. A book, video, or record club or contractual plan or arrangement in which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of

the latter plan include continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;

14. A merchant who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation; or

15. Any telephone marketing service company which provides telemarketing sales services under contract to merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under KRS 367.46951 to 367.46999, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of KRS 367.46951 to 367.46999, if applicable;

(d) A telephone call made by a merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or

(e) A telephone call made by a merchant or the merchant's affiliate or authorized agent, where the merchant is a publicly traded corporation;

Except for subparagraph (2)(c)15. of this section, the exemptions provided under subsection (2) of this section shall apply only to a merchant or the merchant's affiliate or authorized agent engaging in a telephone solicitation on the merchant's behalf;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator; and

(11) "Publicly-traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer.

Section 573. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the jury. The report shall be compiled by at least three (3) individuals, including a physician, a

psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for ***Families and Children***[~~Human Resources~~] who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the Cabinet for ***Families and Children***[~~Human Resources~~] residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 574. KRS 387.600 is amended to read as follows:

(1) The court may appoint as limited guardian, guardian, limited conservator, or conservator any suitable person or any entity, public or private, capable of conducting an active guardianship or conservatorship program. The court shall not ordinarily or customarily appoint the Cabinet for ***Families and Children***[~~Human Resources~~] or any other person or entity, public or private, that is directly providing services to the respondent unless no other suitable person or entity is available and willing to be appointed. Appointment of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be consistent with the provisions of KRS 210.290.

(2) Prior to the appointment, the court shall make a reasonable effort to question the respondent concerning his preference regarding the person or entity to be appointed limited guardian, guardian, limited conservator, or conservator, and any preference indicated shall be given due consideration. If the respondent has designated another as his attorney in fact or agent by executing a power of attorney in writing, that designation shall be treated as an indication of the respondent's preference as to the person or entity to be appointed as his limited guardian, guardian, limited conservator, or conservator, and that preference shall be given due consideration. The court shall appoint the person or entity best qualified and willing to serve.

Section 575. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for ***Families and Children***[~~Human Resources~~] who meets the qualifications of KRS 335.080(1)(a), (b) and (c) or 335.090(1)(a), (b) and (c) supporting the need for the continuation of the guardianship or conservatorship.

Section 576. KRS 402.320 is amended to read as follows:

Every physician examining applicants for a marriage license may obtain an appropriate blood specimen from each applicant and forward same to the Division of Laboratory Services, Cabinet for ***Health Services***[~~Human Resources~~], or to a laboratory approved by the cabinet, to ascertain the existence or nonexistence of sickle cell trait or sickle cell disease, or any other genetically-transmitted disease which affects hemoglobin. In the event the laboratory tests indicate that both applicants are carriers of a trait or disease, the physician may provide genetic counseling or refer the applicants to the cabinet or to an agency approved by the cabinet for such counseling.

Section 577. KRS 402.340 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] shall adopt rules and regulations for the proper administration and enforcement of KRS 402.310 to 402.340.

Section 578. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

  (a) A child's extraordinary medical or dental needs;

  (b) A child's extraordinary educational, job training, or special needs;

  (c) Either parent's own extraordinary needs, such as medical expenses;

  (d) The independent financial resources, if any, of the child or children;

  (e) Combined parental income in excess of the Kentucky child support guidelines;

  (f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their adjusted gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(b) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) In any case administered by the Cabinet for ***Families and Children***[~~Human Resources~~], if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for ***Families and Children***[~~Human Resources~~] may, upon application, enroll the child.

Section 579. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area; and

(f) The Attorney General or his designee, who shall be an attorney from his office.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 580. KRS 403.7505 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.

(2) The standards created by the cabinet shall be based on the following principles:

(a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;

(b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and

(c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.

(3) The standards created by the cabinet shall address the following:

(a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;

(b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;

(c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;

(d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;

(e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;

(f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;

(g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and

(h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.

(4) The cabinet shall:

(a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and

(b) Collect data from certified providers, which shall include the number of domestic violence offenders served by the certified providers, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission.

Section 581. KRS 403.783 is amended to read as follows:

(1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers,

including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly-authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).

(2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for ***Families and Children***[~~Human Resources~~], Department for Social Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.

(3) No later than January 1 after July 15, 1996 and July 31 of every even numbered year which follows, every law enforcement agency shall submit a copy of the agency's written domestic violence policy to the Justice Cabinet.

(4) If a law enforcement agency fails to submit a copy of the agency's written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.

(5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

Section 582. KRS 403.785 is amended to read as follows:

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for ***Families and Children***[~~Human Resources~~], Department for Social Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:

(a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;

(b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

(c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

Section 583. KRS 405.465 is amended to read as follows:

(1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the Cabinet for ***Families and Children***[~~Human Resources~~] or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.

(2) All child support orders and medical support insurance orders being established, modified, or enforced by the Cabinet for ***Families and Children***[~~Human Resources~~], or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the Cabinet for ***Families and Children***[~~Human Resources~~] or the domestic relations clerk of the court or other officer designated by the court to receive the payment, that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5) The employer shall notify the cabinet when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.

(6) Any assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(7) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ,

or taking disciplinary action against any obligor subject to withholding required by this section.

Section 584. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for ***Families and Children***~~[Human Resources]~~, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a parent is required to pay court ordered or administratively determined child support, medical support, maintenance, and medical support insurance, wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any.

(3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer.

(4) Advance notice shall be sent to the obligor prior to the issuance of the order to withhold earnings. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the obligor of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the obligor with the information contained in any order served on the employer with respect to the withholding.

(5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or Family Court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.

(8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively-ordered or judicially-ordered medical support obligation.

(9) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(10) Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(11) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(12) The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(13) Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 585. KRS 405.490 is amended to read as follows:

(1) Any person, including the obligor, who has been served with an order to withhold and deliver the obligor's property shall answer the order within twenty (20) days.

(2) The person in possession of any obligor's property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or the obligor may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of obligor's property shall have no liability or further responsibility after fulfilling the duties under this section.

(4) The obligor may dispute the amount of delinquent support by requesting a dispute hearing with twenty (20) days.

(5) If the obligor does not request a hearing, acknowledgment of the obligation is presumed and the secretary may apply the withheld property to the delinquent child support obligation.

(6) If a hearing is requested, when property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending determination of the obligor's liability by a hearing officer, pursuant to KRS 405.450.

(7) Upon a decision adverse to the Cabinet for ***Families and Children***[~~Human Resources~~] by a hearing officer, of the Circuit Court on appeal, the cabinet shall return the property together with interest at the legal rate for judgments.

Section 586. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for ***Families and Children***[~~Human Resources~~] or its designee upon the request of complainant authorized by this section.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant[~~ herein~~] authorized ***by this section***. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical support shall be brought by the county attorney or by the Cabinet for ***Families and Children***[~~Human Resources~~] or its designee.

(4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a rebuttable presumption of paternity.

(5) Upon a showing of service of process on the defendant and if the defendant has made no pleading to the court or has not moved to enter evidence pursuant to KRS 406.091, the court shall order paternity to be established by default.

Section 587. KRS 407.190 is amended to read as follows:

If this state is acting as an initiating state, the county attorney, upon the request of the court or an appropriate welfare official or state agency, shall represent the plaintiff in any proceeding under this chapter. If the county attorney neglects or refuses to represent the plaintiff, the secretary for ***families and children***[~~human resources~~] or his authorized representative may employ private counsel to represent the obligee.

Section 588. KRS 407.240 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] is[~~ hereby~~] designated as the state information agency under this chapter, and it shall be its duty:

(a) To compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law. Upon the adjournment of each session of the legislature the agency shall distribute copies of any amendments to the chapter and a statement of their effective date to all other state information agencies;

(b) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this chapter;

(c) To forward to the court in this state which has jurisdiction over the obligor or his property, petitions, certificates and copies of the act it received from courts or information agencies of other states.

(2) If the state information agency does not know the location of the obligor or his property in the state and no state location service is available, it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended.

(3) After the deposit of three (3) copies of the complaint and certificate and one (1) copy of the act of the initiating court with the clerk of the appropriate court, if the state information agency knows or believes that the county attorney is not prosecuting the case diligently, and a reasonable period of time since the deposit of the complaint has lapsed, it shall send an inquiry to the county attorney to determine why the case is not prosecuted diligently. If the county attorney fails to respond to the inquiry, fails to give sufficient reason why he has not prosecuted the case diligently or refuses to proceed in prosecution of the case, the secretary for ***families and children***~~[human resources]~~ or his authorized representative may employ private counsel to represent the obligee.

Section 589. KRS 407.250 is amended to read as follows:

(1) When the court of this state, acting as a responding court, receives from the initiating court the aforesaid copies, it shall docket the cause, notify the county attorney, set a time and place for a hearing, and take such action as is necessary in accordance with the laws of this state to obtain jurisdiction.

(2) The county attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court clerk to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

(3) If the county attorney neglects or refuses to represent the obligee, the secretary for ***families and children***~~[human resources]~~ or his authorized representative may employ private counsel to represent the obligee.

Section 590. KRS 407.440 is amended to read as follows:

If the secretary for ***families and children***~~[human resources]~~ or his authorized representative is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or if the support order was issued in another state, cause the appeal to be taken in the other state. In either case, expenses of appeal may be paid on his order from funds appropriated for his office.

Section 591. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent***;***~~[.]~~

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state***;***~~[.]~~

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support***;***~~[.]~~

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period***;***~~[.]~~

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state***;***~~[.]~~

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by KRS 403.212, to withhold support from the income of the obligor***;***~~[.]~~

(7) "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state***;***~~[.]~~

(8) "Initiating tribunal" means the authorized tribunal in an initiating state***;***~~[.]~~

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage***;***~~[.]~~

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage***;***~~[.]~~

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law***;***~~[.]~~

(12) "Obligee" means:

  (a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

  (b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

  (c) An individual seeking a judgment determining parentage of the individual's child***;***~~[.]~~

(13) "Obligor" means an individual, or the estate of a decedent:

  (a) Who or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order***;***[~~.~~]

(14) "Register" means to file a support order or judgment determining parentage with the Cabinet for ***Families and Children;***[~~Human Resources.~~]

(15) "Registering tribunal" means a tribunal in which a support order is registered***;***[~~.~~]

(16) "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act***;***[~~.~~]

(17) "Responding tribunal" means the authorized tribunal in a responding state***;***[~~.~~]

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor***;***[~~.~~]

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter***;***[~~.~~]

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) To locate obligors or their assets***;***[~~.~~]

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief***; and***[~~.~~]

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 592. KRS 407.5102 is amended to read as follows:

The Circuit Court, District Court, and family courts shall be the state tribunals for judicial proceedings, and the Cabinet for ***Families and Children***[~~Human Resources~~] and the Division of Child Support Enforcement (DCSE) shall be the state tribunals for administrative proceedings.

Section 593. KRS 407.5201 is amended to read as follows:

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with summons, or notice within this state;

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive pleading having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) The individual asserted parentage in the putative father registry maintained in this state by the Cabinet for ***Families and Children***[~~Human Resources~~]; or

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Section 594. KRS 407.5308 is amended to read as follows:

If the Cabinet for ***Families and Children***[~~Human Resources~~] determines that a contracting official is neglecting or refusing to provide services to an individual, the Cabinet for ***Families and Children***[~~Human Resources~~] may order that official to perform his duties under KRS 407.5101 to 407.5902 or may provide those services directly to the individual.

Section 595. KRS 407.5310 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] is the state information agency under KRS 407.5101 to 407.5902.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under KRS 407.5101 to 407.5902 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under KRS 407.5101 to 407.5902 received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Section 596. KRS 407.5602 is amended to read as follows:

(1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the Cabinet for ***Families and Children***~~[Human Resources]~~ or the appropriate tribunal within this state wherein the obligor resides, works, or owns property:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two (2) copies, including one (1) certified copy, of all orders to be registered, including any modification of an order;

(c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known;

1. The obligor's address and Social Security number;

2. The name and address of the obligor's employer and any other source of income of the obligor; and

3. A description and the location of property of the obligor in this state not exempt from execution; and

(e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

Section 597. KRS 411.095 is amended to read as follows:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for ***Families and Children***~~[Human Resources]~~, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages, or penalty, or both, and costs under this section may be brought in any court of

competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages or penalties, or both, which may be recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after July 13, 1990.

Section 598. KRS 411.148 is amended to read as follows:

(1) No physician licensed under KRS Chapter 311, registered or practical nurse licensed under KRS Chapter 314, person certified as an emergency medical technician by the Kentucky ***Cabinet***[~~Department~~] for ***Health Services***[~~Human Resources~~], person certified by the American Heart Association or the American Red Cross to perform cardiopulmonary resuscitation, or employee of any board of education established pursuant to the provision of KRS 160.160, who has completed a course in first aid and who maintains current certification therein in accordance with the standards set forth by the American Red Cross shall be liable in civil damages for administering emergency care or treatment at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment excluding house calls, for acts performed at the scene of such emergency, unless such acts constitute willful or wanton misconduct.

(2) Nothing in this section applies to the administering of such care or treatment where the same is rendered for remuneration or with the expectation of remuneration.

(3) The administering of emergency care or treatment at the scene of an emergency by employees of a board of education shall not be considered to be rendered for remuneration or with the expectation of remuneration because such personnel perform such care as part of their regular professional or work responsibilities for which they receive their regular salaries from the school board which is their employer.

Section 599. KRS 431.100 is amended to read as follows:

(1) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(2) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for ***Health Services***[~~Human Resources~~] for the provision of treatment and counseling programs for alcoholics.

(3) Fines for violation of KRS 512.070 shall be transferred by the Circuit Clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.

(4) Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for matching funds for grants for providing services and programs to juvenile public offenders.

(5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due the state or any other public officer paid to any person or organization other than one specifically required by statute nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the state if the defendant makes a payment to another person or organization.

Section 600. KRS 431.600 is amended to read as follows:

(1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for ***Families and Children***[~~Human Resources~~]. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.

(2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.

(3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.

(4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and

familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.

(5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.

(6) Commonwealth's attorneys and county attorneys and the Cabinet for ***Families and Children***~~[Human Resources]~~ shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.

(7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

Section 601. KRS 431.650 is amended to read as follows:

(1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.

(2) The commission shall be comprised of the following members:

(a) The commissioner of the Department for Social Services or a designee;

(b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;

(c) One (1) family service worker who is employed by the Department for Social Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;

(d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;

(e) The commissioner of the Kentucky State Police or a designee;

(f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;

(g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;

(h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;

(i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;

(j) The commissioner of the Department of Education or a designee;

(k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education; and

(l) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.

(3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The commission shall elect a chairperson annually from its membership.

Section 602. KRS 441.047 is amended to read as follows:

(1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar evaluation, treatment or services, it shall be the responsibility of the Commonwealth to provide such evaluation, treatment, or services at the expense of the Commonwealth at the nearest state operated or state supported facility suitable for the provision of the required evaluation, treatment, or services at no cost to the county.

(2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar evaluation in connection with the criminal proceedings in which he is a defendant it shall be the responsibility of the Commonwealth to provide the evaluation at the nearest state operated or state supported facility suitable for the provision of the required evaluation at no cost to the county.

(3) In the event that no suitable state operated or state supported facility is located within a reasonable distance, then the evaluation may be made at a suitable local facility or at the jail. In such instances a request must first be made to the Cabinet for ***Health Services***~~[Human Resources]~~ to provide the evaluation, treatment or service unless the situation is an emergency requiring immediate attention. If the cabinet cannot provide the service or if the situation is an emergency, then local resources may be utilized.

(4) In the event that local resources are utilized in an emergency situation, or when the Cabinet for ***Health Services***~~[Human Resources]~~ is unable to provide the evaluation, treatment, or service, then the reasonable cost of providing such service, treatment, or evaluation shall be paid from the State Treasury in the same manner as other medical expenses of indigent

prisoners confined in the county jail.

(5) The Cabinet for ***Health Services***~~[Human Resources]~~ shall administer the provisions of this section and shall issue such administrative regulations as necessary to carry out the provisions of this section.

Section 603. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for ***Health Services***~~[Human Resources]~~. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the governmental services center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 604. KRS 504.060 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the Department of Corrections;

(2) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(3) "Foreseeable future" means not more than three hundred sixty (360) days;

(4) "Incompetency to stand trial" means that, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(5) "Insanity" means that, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(6) "Mental illness" means substantially impaired capacity to use self-control, judgment, or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological or social factors;

(7) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(8) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(9) "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to perform examinations;

(10) "Treatment" means medication or counseling, therapy, psychotherapy, and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery; and

(11) "Treatment facility" means an institution or part thereof, approved by the Cabinet for ***Health Services***~~[Human Resources]~~, which provides evaluation, care and treatment for insane, mentally ill or mentally retarded persons on an inpatient or outpatient basis, or both.

Section 605. KRS 504.080 is amended to read as follows:

(1) A court may commit a defendant to a treatment facility or forensic psychiatric facility for up to thirty (30) days so that a psychologist or psychiatrist can examine, treat and report on the defendant's mental condition, except that if the defendant is charged with a felony and it is determined that inpatient examination or treatment is required, the defendant shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary's designee determines that the defendant shall be examined and treated in another Cabinet for ***Health Services***~~[Human Resources]~~ facility.

(2) Reports on a defendant's mental condition prepared under this chapter shall be filed within ten (10) days of the examination.

(3) The defendant shall be present at any hearing on his mental condition unless he waives his right to be present.

(4) The examining psychologist or psychiatrist shall appear at any hearing on defendant's mental condition unless the defendant waives his right to have him appear.

(5) A psychologist or psychiatrist retained by the defendant shall be permitted to participate in any examination under this chapter.

(6) The Cabinet for ***Health Services***~~[Human Resources]~~, if the cabinet or its agent or employee does not provide the examination, shall pay a reasonable fee to any psychologist or psychiatrist ordered to examine, treat and report on a defendant's mental condition.

(7) The termination of criminal proceedings under this chapter is not a bar to the institution of civil commitment proceedings.

Section 606. KRS 504.110 is amended to read as follows:

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility or a forensic psychiatric facility and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first, except that if the defendant is charged with a felony, he shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary's designee determines that the defendant shall be treated in another Cabinet for ***Health Services***~~[Human Resources]~~ facility. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

(3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Section 607. KRS 510.320 is amended to read as follows:

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for ***Health Services***~~[Human Resources]~~.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for ***Health Services***~~[Human Resources]~~ to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing and to any other agency as directed pursuant to KRS Chapter 214.

(c) In addition, the Cabinet for ***Health Services***~~[Human Resources]~~ shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for ***Health Services***~~[Human Resources]~~ shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

Section 608. KRS 529.090 is amended to read as follows:

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for ***Health Services***~~[Human Resources]~~ and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for ***Health Services***~~[Human Resources]~~ to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.

(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits, offers, or agrees to commit prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

Section 609. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for ***Health Services***~~[Human Resources]~~, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 610. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent,

guardian, or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for ***Families and Children***~~[Human Resources]~~ and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for ***Families and Children***~~[Human Resources]~~, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's

culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~];

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 611. KRS 600.040 is amended to read as follows:

When KRS 605.090, 605.100, 605.110, 605.115, 610.110, or any other section of this code refer jointly to the operation of a program or service by both the Department of Juvenile Justice and the Cabinet for ***Families and Children***[~~Human Resources~~], the following divisions are intended:

(1) Facilities, programs, and services relating to juveniles under KRS Chapter 635 or 640, or under KRS Chapter 645 as relates to a child who is mentally ill and who also comes within the purview of KRS Chapter 635 or 640, shall be the responsibility of the Department of Juvenile Justice.

(2) Facilities, programs, and services relating to juveniles under other chapters of the code, including KRS Chapter 630, shall be the responsibility of the Cabinet for ***Families and Children***[~~Human Resources~~].

Section 612. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for ***Families and Children***[~~Human Resources~~] Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for ***Families and Children***[~~Human Resources~~] and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for ***Families and Children***[~~Human Resources~~], Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children.

(b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;
2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children pursuant to KRS 156.0951;
3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;
4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;
5. The funding for school services for state agency children authorized by KRS 158.135; and
6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (e) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
    a. Define the financial responsibility of each state and local agency for providing services to state agency children;
    b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for ***Families and Children***[~~Human Resources~~].

(e) The commissioner of Juvenile Justice and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 613. KRS 605.115 is amended to read as follows:

The commissioner of the Department of Juvenile Justice and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], with the cooperation of the Kentucky Board of Education and the commissioner of education, shall implement policies to assure that local school districts providing a funding match shall have direct access to Medicaid funding as Medicaid providers for the provision of health-related services to eligible children with disabilities under the age of twenty-one (21) years of age. They shall develop policies and procedures so the Department of Education can transfer the local school districts' matching funds to the Department for Medicaid Services. They shall also review state and federal statutes and regulations to determine the eligibility of local school districts to receive Medicaid reimbursement for health-related services identified on a child's individual education plan.

Section 614. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the Cabinet for ***Families and Children***[~~Human Resources~~] or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the cabinet or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); and

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 615. KRS 615.040 is amended to read as follows:

The following provisions apply to the compact described in KRS 615.030:

(1) The following definitions apply to KRS 615.030:

(a) As used in paragraph (a) of Article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the Cabinet for ***Families and Children***[~~Human Resources~~].

(b) The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children shall, with reference to this state, mean the Cabinet for ***Families and Children***[~~Human Resources~~] and said cabinet shall receive and act with reference to notices required by said Article III.

(c) As used in Article VII of the interstate compact on the placement of children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

(2) Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children:

(a) Shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of KRS 405.020 shall apply.

(b) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in another party state pursuant to paragraph (b) of Article V of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of the Finance and Administration Cabinet in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

(3) Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the interstate compact on the placement of children and shall retain jurisdiction as provided in Article V of KRS 615.030 thereof.

(4) No person or institution shall bring or send, or cause to be brought or sent, a dependent child into this state from another state for the purpose of placing him in a family home, either with or without indenture or for adoption, without first filing a ten thousand dollar ($10,000) bond with the county judge/executive of the county in which the child is to be placed.

(5) The bond shall be conditioned as follows:

(a) That they will not bring or send, or cause to be brought or sent, into this state any child that is incorrigible or of unsound mind or body or who has any contagious or incurable disease;

(b) That they will immediately, upon placing the child, report to the department the name and age of the child, and the name and residence of the person with whom he is placed;

(c) That if the child becomes a public charge before reaching his majority, they will, within thirty (30) days after receiving written notice of such fact from the department, remove the child from the state;

(d) That if the child is convicted of a crime or misdemeanor and is imprisoned, within five (5) years of the time of his arrival, they will remove the child from the state immediately upon his release;

(e) That they will place each dependent child by written contract with a person who will furnish the child a proper home, and will make the person receiving the child responsible for its proper care, education and training;

(f) That they will properly supervise the care and training of the child, and visit each child at least once a year;

(g) That they will make such reports to the department as the department requires.

(6) The provisions of KRS 615.030 shall not apply to a parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt going to any other state or country and bringing a child into this state for the purpose of giving it a home in his own family, and may be waived by the department for any child brought into the state under the supervision of the division or licensed child-caring or child-placing institution or agency by written agreement with the responsible agency of the other state or country, or under special circumstances agreed to in writing by the cabinet and the persons wishing to import a child.

(7) The provisions of subsections (4) and (5) of this section shall not apply to placements made pursuant to the interstate compact on the placement of children.

Section 616. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.

(3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exists reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(5) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for ***Families and Children***[~~Human Resources~~] and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.

(f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Section 617. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Families and Children***~~[Human Resources]~~, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Families and Children***~~[Human Resources]~~, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Families and Children***~~[Human Resources]~~, of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250); and

(d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Section 618. KRS 620.145 is amended to read as follows:

(1) Within sixty (60) days of the commitment date of a child due to abuse, neglect, or dependency, the Cabinet for ***Families and Children***~~[Human Resources]~~ shall provide the court with jurisdiction an assessment of the child to determine:

(a) The child's current and historical educational functioning;

(b) The child's emotional and behavioral functioning; and

(c) The extent to which the child's life experiences and circumstances of commitment have created a disabling condition requiring special educational programming or other services to provide the child an appropriate public education.

(2) Upon discerning of an emotional, behavioral, or other disabling condition with negative impact upon a child's educational experience, the Cabinet for ***Families and Children***~~[Human Resources]~~ as guardian of the child shall ensure that whatever services necessary are obtained to allow the child the benefit of a free, appropriate public education.

(3) Services required to allow the child a free, appropriate public education shall be limited to those required under Section 504 of Public Law 93-112, Public Law 94-142, or other federal statutes affecting children with emotional or behavioral disabilities.

(4) The Cabinet for ***Families and Children***~~[Human Resources]~~ shall include activities undertaken to ensure a child committed to the Cabinet for ***Families and Children***~~[Human Resources]~~ receives adequate public education in the six (6) month case progress report required by KRS 620.240.

(5) Any child removed from his home due to abuse, neglect, or dependency and placed in the least restrictive appropriate placement available shall, for the purposes of acquiring an appropriate public education, be considered a resident of the school district where the placement occurs.

Section 619. KRS 625.041 is amended to read as follows:

(1) The only party to an action for voluntary termination of parental rights shall be the parent seeking termination, but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the Cabinet for ***Families and Children***[~~Human Resources~~] receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

Section 620. KRS 625.043 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of the parent and releasing the child from all legal obligations to the parent and vesting care and custody of the child in the person, agency, or cabinet the court believes is best qualified to receive custody.

(2) Upon consent by the Cabinet for ***Families and Children***[~~Human Resources~~], the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is not excepted by KRS 199.470(4) or (5), a grant of permanent custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.

Section 621. KRS 625.100 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be terminated involuntarily in accordance with the provisions of this chapter, it shall enter an order that the termination of parental rights and the transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter. The order shall terminate all parental rights and obligations of such parent and release the child from all legal obligations to such parent and vest care and custody of the child in such person, agency or cabinet as the court believes best qualified.

(2) Upon consent by the Cabinet for ***Families and Children***[~~Human Resources~~], the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person, if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is unrelated to the child, a grant of custody shall be made only with the written approval of the secretary or his designee.

Section 622. KRS 635.520 is amended to read as follows:

(1) The Department of Juvenile Justice shall have the sole authority and responsibility for establishing the design of the juvenile sexual offender treatment program but shall consult with the Administrative Office of the Courts and the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) The Department of Juvenile Justice may enter into agreements with public or private agencies in order to implement and operate the juvenile sexual offender treatment program.

Section 623. KRS 640.050 is amended to read as follows:

(1) Any period of probation or conditional discharge required by the sentencing court to be served shall be supervised, as the court may determine by written order, by:

  (a) The Department of Juvenile Justice;

  (b) The Department of Corrections; or

  (c) The designated representative of either of the above.

(2) The Cabinet for ***Families and Children***[~~Human Resources~~] may make recommendations to the Circuit Court concerning the disposition of the youthful offender.

(3) The court may order any of the above alternatives without regard to the age of the youthful offender.

Section 624. KRS 640.090 is amended to read as follows:

Upon the determination that a person is a youthful offender, the Cabinet for ***Families and Children***[~~Human Resources~~], the Department of Juvenile Justice, and all other public agencies possessing records relating to the youthful offender shall, upon request, provide copies of the records to the Kentucky Parole Board and to the Department of Corrections. No record relating to the child, except records maintained by the youthful offender's defense attorney or the Department of Public Advocacy, if he was defended by that department, shall be deemed privileged from disclosure to the Parole Board.

Section 625. KRS 640.100 is amended to read as follows:

All officials of the Cabinet for ***Families and Children***[~~Human Resources~~] and the Department of Corrections shall furnish members of the Parole Board, or its properly accredited representatives:

(1) Access at all reasonable times to any youthful offender over whom the board has jurisdiction under this chapter;

(2) Facilities for communicating with and observing the youthful offender;

(3) The reports the board requires concerning the conduct and character of any youthful offender in its custody; and

(4) Any other facts deemed pertinent by the board in determining whether the youthful offender shall be paroled.

Section 626. KRS 640.110 is amended to read as follows:

When a youthful offender is transferred to the Department of Corrections in accordance with this chapter, the Cabinet for ***Families and Children***~~[Human Resources]~~ shall transfer a copy of all records relating to the youthful offender to the Department of Corrections.

Section 627. The following KRS sections are repealed:

194.010 Cabinet for Human Resources -- Functions.
194.025 Power and authority of secretary.
194.030 Major organizational units of cabinet.
194.040 Internal organization of offices and bureaus.
194.050 Execution of policies, plans, and programs -- Administrative regulations -- Fees.
194.060 Confidentiality of records and reports.
194.070 Utilizing community resources for delivery of services.
194.080 Cost allocation plan.
194.090 Citizen advisory bodies.
194.100 Annual joint conference of citizen advisory bodies.
194.110 Bodies attached for administrative and support purposes.
194.120 Bodies attached to cabinet with statutory authority to issue administrative regulations.
194.130 Limitation on administrative processes.
194.135 Developmental Disabilities Planning Council -- Members -- Duties.
194.140 Special subcommittees.
194.150 State officials as voting members of citizens' councils.
194.160 Alternates or representatives for boards, councils, committees, and similar bodies.
194.170 Secretary's authority to create special task forces, advisory committees, and citizens' panels.
194.180 Rules and regulations of various bodies.
194.190 Gifts and grants.
194.200 Compensation and expenses of members of councils.
194.350 Liability insurance for physicians, hospital administrators, and directors employed by cabinet.
194.360 Annual report on committed children -- Contents.
194.370 In-service training for social workers on child sexual abuse.
194.500 Definitions.
194.505 Prohibited activities -- Commencement of proceedings for enforcement.
194.510 Defense in prosecution.
194.515 Access to criminal records by cabinet's agents.
194.530 Training and continuing education courses for Department for Social Services staff.
194.535 Training requirements for staff of agencies providing shelter services for victims.
194.540 Training courses for mental health professionals and health care providers.
194.550 Definitions for KRS 194.550 to KRS 194.559.
194.552 Office on Alzheimer's Disease and Related Disorders -- Director -- Report -- Purposes and duties.
194.555 Alzheimer's Disease and Related Disorders Council -- Members -- Duties.
194.559 Authority to promulgate administrative regulations.
194.990 Penalties.
195.120 Purpose of KRS 195.130 and 195.140.
195.130 Definition for KRS 195.120 to 195.140.
195.140 Programs for displaced homemakers.
195.180 Duties.

Section 628. In order to reflect the reorganization effectuated by this Act, the Reviser of Statutes, in codifying newly-enacted text in legislation from this 1998 Regular Session of the General Assembly, shall, where he deems it necessary and appropriate, replace references to the former Cabinet for Human Resources and to its officers and subagencies with references to the appropriate successor cabinet, officer, or subagency established by this Act. In so doing, the Reviser of Statutes shall base his actions on the functions assigned to the various new entities by this Act and may consult with the Secretaries of the Cabinet for Human Services and the Cabinet for Children and Families, or their designees, to receive their suggestions.

Section 629. To the extent that the following specified executive orders are not otherwise confirmed or superseded by this Act, the General Assembly hereby confirms Executive Order 96-862, dated July 2, 1996, relating to reorganization of the Cabinet for Human Resources, as amended by the following:

(1) Executive Order 96-1494, dated November 8, 1996, relating to the internal structure of the Cabinet for Health Services. The Divisions of State and Local Health Administration, of Laboratory Services, of Epidemiology, of Individual and Clinic Providers, and of Facilities and Alternative Services were established within the Department for Public Health. Specified state owned, contracted, operated, or comanaged facilities were attached to the Office of the Commissioner within the Department for Mental Health and Mental Retardation Services for management and administrative purposes, and Divisions of Administration and Financial Management, of Maternal and Child Health, of Health Systems Development, and of Environmental Health and Community Safety were established within that department. Divisions of Administration and Development, of Mental Health, of Mental Retardation, and of Substance Abuse were established within the Department for Medicaid Services. Divisions of Licensing and Regulation, of Audits, and of Special Investigations were established within the Office of the Inspector General. Divisions of Administrative Services and of Clinical Services were established for the Commission for Children with Special Health Care Needs.

(2) Executive Order 96-1499, dated November 8, 1996, relating to the internal structure of the Cabinet for Families and Children. The Divisions of Operations and Resource Management and of Financial Management were established within the Office of Program Support. The Divisions of Program Management, of Aging Services, and of Family Services were established within the Department of Social Services. The Divisions of Management and Development, of Field Services, of Administrative Review, of Child Support Enforcement, and of Disability Determinations were established within the Department for Social Insurance. The Office of Advocacy and Accountability was renamed the Office of the Ombudsman.

(3) Executive Order 97-1348, dated October 16, 1997, reorganizing the divisional structure within the Department for Public Health that had been established in Executive Order 96-1494. The Division of State and Local Health Administration was renamed the Division of Resource Management; the Division of Maternal and Child Health was renamed the Division of Adult and Child Health; the Division of Epidemiology was renamed the Division of Epidemiology and Health Planning; the Division of Environmental Health and Community Safety was renamed the Division of Public Health Protection and Safety; the Division of Local Health Department Operations was established; and the Division of Health Systems Development was abolished.

The Committee Substitute to **HB 132** is as follows:

AN ACT relating to the reorganization of the Cabinet for Human Resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 194A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health Services; and

(2) "Secretary" means the secretary for health services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet is the primary state agency for operating the public health, Medicaid, certificate of need and licensure, and mental health and mental retardation programs in the Commonwealth. The function of the cabinet is to improve the health of all Kentuckians, including the delivery of population, preventive, reparative, and containment health services in a safe and effective fashion, and to improve the functional capabilities and opportunities of Kentuckians with disabilities. The cabinet is to accomplish its function through direct and contract services for planning and through the state health plan and departmental plans for program operations, for program monitoring and standard setting, and for program evaluation and resource management.

SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary for health services and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(2) The secretary may delegate any duties of the office of secretary to employees of the cabinet as the secretary deems

necessary and appropriate, unless otherwise prohibited by statutes.

(3) The secretary may enter into any contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities, and other units of government as may be deemed necessary to carry out the general intent and purposes of the cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary;

(2) Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

(3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;

(b) Licensing and regulatory functions as the secretary may delegate;

(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and

(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(7) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS

200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

(8) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

(9) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and departments not established in 1974 Ky. Acts ch. 74, Art. VI or this Act, and shall organize the cabinet into offices, divisions, regions, districts, and other administrative units as the secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the cabinet.

(2) The secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create positions that enable the cabinet to fulfill all functions assigned to it. The secretary shall designate a person to act as deputy to exercise the duties of the office in case of absence.

(3) The secretary shall, with the approval of the Governor, elect coverage for employees of the cabinet under the unemployment insurance law when required by federal law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

SECTION 7. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall develop and promulgate administrative regulations that protect the confidential nature of all records and reports of the cabinet that directly or indirectly identify a client or patient or former client or patient of the cabinet and that insure that these records are not disclosed to or by any person except as, and insofar as:

(a) The person identified or the guardian, if any, shall give consent; or

(b) Disclosure may be permitted under state or federal law.

(2) The cabinet shall share pertinent information from within the agency's records on clients, current and former clients, recipients, and patients as may be permitted by federal and state confidentiality statutes and regulations governing release of data with other public, quasi-public, and private agencies involved in providing services to current or former clients or patients subject to confidentiality agreements as permitted by federal and state law if those agencies demonstrate a direct, tangible, and legitimate interest in the records. In all instances, the individual's right to privacy is to be respected.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to utilize and promote available or potential community resources for the delivery of services and shall, when it deems appropriate, contract for services with local, community, and private agencies when services would not otherwise be available without cost. The cabinet and local, community, and private agencies operating on contract with the cabinet may charge for services rendered when this would be in accordance with applicable state law.

SECTION 9. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The secretary shall arrange for the development of a cost allocation plan by the cabinet. The cost allocation shall be developed in accordance with generally recognized accounting practices and shall make provisions for the distribution of operational and administrative costs of all organizational units of the cabinet to all programs operated by the cabinet that receive services or are otherwise benefited by the operations of those organizational units.

SECTION 10. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public.

(2) A Public Health Services Advisory Council is created within the cabinet.

(a) The council shall advise the secretary for health services, the commissioner for public health, and officials of the Commonwealth on policy matters concerning the delivery of health services, including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the cabinet to fulfill federal requirements for citizen's advisory councils associated with programs designed to provide health services and to advise the cabinet on the development and content of the state health plan.

(b) The council shall be composed of no more than nineteen (19) citizen members appointed by the Governor. Six (6) members of the council shall be chosen to broadly represent public interest groups concerned with health services, recipients of health services provided by the Commonwealth, minority groups, and the general public. Thirteen (13) members of the council shall represent providers of health care and not less than one-half (1/2) of the providers shall be direct providers of health care. At least one (1) of the direct providers of health care shall be a person engaged in the administration of a hospital, and one (1) shall be a physician in active practice. At least one (1) member shall be a registered sanitarian or sanitary engineer, one (1) a public health nurse, one (1) a member of the current minority advisory council, and one (1) a practicing public health physician. Nominations for health care provider members of the council shall be solicited from recognized health care provider organizations. Membership of the council shall be geographically distributed in order that area development districts are represented. Members shall serve for terms of three (3) years. If a vacancy occurs, the person appointed as a replacement shall serve only for the remainder of the vacated term. Members shall serve until the term begins for their appointed successors. No member shall serve more than two (2) consecutive terms. The chair of the council shall be appointed by the Governor. The secretary for health services and the commissioner for public health shall be nonvoting, ex officio members of the council, and the commissioner for public health shall be a staff director for, and secretary to, the council. The council shall meet at least quarterly and on other occasions as may be necessary on the call of the secretary for health services or the commissioner for public health. A majority of the appointed members shall constitute a quorum.

SECTION 11. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Advisory Council for Medical Assistance, established by KRS 205.540, and its associated bodies are attached to the Department for Medicaid Services for administrative and support purposes. The Advisory Council for Medical Assistance shall advise the secretary for health services and the commissioner for Medicaid services on the administration and operation of the Medical Assistance Program.

SECTION 12. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Commission for Children with Special Health Care Needs and the State Interagency Council for Services to Children with an Emotional Disability shall be the only statutory bodies attached to the cabinet that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, *interstate compact, or other statutory body, presently attached to the cabinet, shall issue administrative regulations but shall operate only in an advisory capacity.*

SECTION 13. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

No corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, attached to or within the cabinet, shall expend funds, hire employees, issue grants, or otherwise engage in the normal administrative process of the cabinet. All of these bodies shall be provided administrative and support services by the cabinet.

SECTION 14. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Developmental Disabilities Planning Council is created within the cabinet.

(2) The Developmental Disabilities Planning Council is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.

(3) The members of the Developmental Disabilities Planning Council shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-four (24) members, of whom twelve (12) are representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973; the state agency that administers funds provided under the Education of the Handicapped Act; the state agency that administers funds provided under the Older Americans Act of 1965; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; the protection and advocacy system established under Public Law 101-496; and local agencies, nongovernmental agencies, and private, nonprofit groups concerned with services to persons with developmental disabilities.

(a) At least twelve (12) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 and who are not employees of a state agency that receives funds or provides services under this section. Of these members, at least four (4) members shall be persons with developmental disabilities, and at least four (4) members shall be the immediate relatives or guardians of persons with mentally impairing developmental disabilities meeting the conditions listed in this subsection. At least one (1) of these relatives or guardians shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability. At least one (1) member of the council shall represent and advocate for the interests and rights of disabled, newborn infants.

(b) Members not representing principal state agencies shall be appointed for a term of three (3) years, except the initial appointments shall be made in the following manner: four (4) members shall be appointed for a term of three (3) years, four (4) members shall be appointed for a term of two (2) years, and four (4) members shall be appointed for a term of one (1) year.

(c) The planning council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities.

(4) The Developmental Disabilities Planning Council shall develop jointly with the cabinet and any other agencies designated to administer or supervise the administration of the state plan as required by Part B of the Developmental Disabilities Act of 1984, Public Law 98-527, including the specification of priority services required by that plan; monitor, review, and evaluate, not less often than annually, the implementation of this plan; to the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities; and submit to the secretary of the cabinet any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports.

SECTION 15. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

When the Public Health Services Advisory Council is assigned responsibility for qualifying the Commonwealth for federal programs with representation and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create special subcommittees to these citizens' councils that meet federal requirements.

SECTION 16. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Families and Children, *the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet, the secretary for Natural Resources and Environmental Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, the secretary of the Labor Cabinet, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.*

SECTION 17. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The secretary and other state officials with the approval of the secretary may designate alternatives or representatives to serve in their capacity as members of all boards, commissions, councils, institutes, and other similar bodies within or attached to the cabinet. The secretary or the secretary's designee shall be an ex officio member of all boards, committees, councils, institutes, and other similar bodies within or attached to the cabinet.

SECTION 18. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The secretary is authorized to create special task forces, technical advisory committees, and other citizens' panels as may be necessary to support the operations of the cabinet. No other officials of the cabinet shall be authorized to create citizens' panels associated with the cabinet, its programs, or suborganizational units, and the secretary shall not delegate this authority.

SECTION 19. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

All administrative regulations, acts, determinations, and decisions of and by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Public Health Services Advisory Council and the Advisory Council for Medical Assistance, shall remain in effect as the administrative regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

SECTION 20. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Public Health Services Advisory Council and the Advisory Council for Medical Assistance shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

SECTION 21. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The members of the Public Health Services Advisory Council shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of this citizens' council. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

SECTION 22. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the cabinet is authorized to purchase liability insurance for the protection of physicians, hospital administrators, and directors employed by the cabinet to protect them from liability for acts, omissions, and claims of medical malpractice arising in the course and scope of their employment of service to the cabinet.

(2) The secretary may purchase the type and amount of liability coverage deemed appropriate to best serve the cabinet's interest.

SECTION 23. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Section 24 of this Act:

(1) "Assistance program" means any program administered by the cabinet;

(2) "Benefit" means receipt of money, goods, or anything of pecuniary value from an assistance program;

(3) "False statement or misrepresentation" means a statement or representation knowingly made by a person to be false; and

(4) "Provider" means an individual, corporation, association, facility, or institution that is providing or has been approved to provide medical assistance to recipients under the Medical Assistance Program.

SECTION 24. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining the person's qualification to receive benefits under any assistance program.

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(3) No person shall, with intent to defraud, knowingly use, attempt to use, acquire, transfer, forge, alter, traffic, counterfeit, or possess a medical identification card or unique electronic authorization codes or numbers or

electronic personal identification numbers in any manner not authorized by law.

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that it is in violation of the law, knowingly aid or abet any person in obtaining benefits to which the person is not legally entitled, or in obtaining a benefit amount greater than that to which the person is fully entitled.

(5) No person shall misappropriate or attempt to misappropriate a Medicaid identification card or misappropriate other benefits from any program with which the person has been assigned responsibility, nor shall the person knowingly fail to report any of these activities when it is clearly in violation of the law.

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice.

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing it to be in violation of the law.

(8) The Attorney General on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section, and the Attorney General shall in undertaking these proceedings exercise all powers and perform all duties that a prosecuting attorney would otherwise perform or exercise.

SECTION 25. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

In any prosecution for the violation of Section 24 of this Act, it shall be a defense if the person relied on the advice of an employee or agent of the cabinet.

SECTION 26. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

For the purpose of enforcing the provisions of Section 24 of this Act and KRS 205.8451 to 205.8483 and of investigating any assistance program administered by the cabinet, the designated agents of the cabinet shall have the same access as peace officers to records maintained under KRS 17.150.

SECTION 27. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The secretary for health services shall, in consultation with the applicable licensure board, develop domestic violence-related training courses that are appropriate for the following professions:

(a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;

(b) Physicians who practice primary care, as defined in KRS 164.925, and who are licensed under KRS Chapter 311; and

(c) Nurses licensed under KRS Chapter 314.

(2) The courses shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(3) No later than June 30, 1999, every health care or mental health professional licensed or certified under KRS Chapter 309, 311, 314, 319 or 335, on or after July 15, 1996, shall successfully complete a three (3) hour training course that meets the requirements of subsection (2) of this section. Persons who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

SECTION 28. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the provisions of subsection (1), (2), or (7) of Section 24 of this Act shall be guilty of a Class A misdemeanor, unless the sum total of benefits received in excess of that to which the person was entitled at the time of the offense was committed is valued at or over one hundred dollars ($100), in which case it is a Class D felony.

(2) Any person who violates subsection (3) of Section 24 of this Act shall be guilty of a Class D felony.

(3) Any person who violates the provisions of subsections (4) to (5) of Section 24 of this Act shall be guilty of a Class C felony.

(4) Any person who violates the provisions of subsection (6) of Section 24 of this Act shall be guilty of a Class D felony, unless the purpose of the violation is to obtain ten thousand dollars ($10,000) or more, in which case it shall be a Class C felony.

(5) Any person who violates subsections (1) to (6) of Section 24 of this Act shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

(6) Any provider who violates subsections (1) to (6) of Section 24 of this Act shall, in addition to any other penalties provided by law, including the penalty set forth in subsection (5) of this section, forfeit and pay civil penalties of:

(a) Payment to the State Treasury's general revenue fund in an amount equal to three (3) times the amount of the benefits and payments to which the person was not entitled; and

(b) Payment to the State Treasury's general revenue fund of all reasonable expenses that the court determines have been necessarily incurred by the state in the enforcement of this section.

SECTION 29. KRS CHAPTER 194B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Families and Children; and

(2) "Secretary" means the secretary for families and children.

SECTION 30. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet is the primary state agency responsible for leadership in protecting and promoting the wellbeing of Kentuckians through the delivery of quality human services. Recognizing that children are the Commonwealth's greatest natural resource and that individuals and their families are the most critical component of a strong society, the cabinet shall deliver social services to promote their safety and security and preserve their dignity. The cabinet shall promote collaboration and accountability among local, public, and private programs to improve the lives of families and children. The cabinet also is to administer income supplement programs that protect, develop, preserve, and maintain families and children in the Commonwealth.

SECTION 31. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary for families and children and the secretary's designated representatives in the discharge of the duties of the secretary may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(2) The secretary may delegate any duties of office to employees of the cabinet as the secretary deems necessary and appropriate, unless otherwise prohibited by statutes.

SECTION 32. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary. The Office of the Secretary for Families and Children may, in addition to the secretary for families and children, include other personnel as are necessary to direct and carry out the missions and goals of the cabinet, including a deputy secretary if deemed necessary by the secretary of the cabinet and upon approval of the Governor.

(2) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be responsible to the secretary. The Attorney General, on the request of the secretary, may designate the General Counsel as an assistant attorney general under the provisions of KRS 15.105.

(3) Office of Program Support. The Office of Program Support shall be responsible for providing administrative and management support, planning, and appraisal of need services within the Cabinet for Families and Children. All personnel, fiscal, budgetary, and facility management functions of the cabinet shall be vested in the Office of Program Support. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the Office of Program Support under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(4) Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(5) Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner is under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(6) Office of Family Resource and Youth Services Centers. The Office of Family Resources and Youth Services Centers shall be responsible for the administration, management, and operations of the Family Resources and Youth Services Centers Program. The Office of Family Resources and Youth Services Centers shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(7) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including, but not limited to, quality assurance, quality control, and outcome assessment; a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies; contract monitoring; and professional development and training. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(8) Office of Technology Services. The Office of Technology Services shall develop and maintain technology and information management systems in support of all units of the cabinet. The Office of Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director for technology services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director for technology services shall exercise authority of the Office of Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(9) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended by 42 U.S.C. sec. 3001 et. seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers.

SECTION 33. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall, subject to the provisions of KRS Chapter 12, establish the internal organization of the offices and departments not established in 1974 Ky. Acts ch. 74, Art. VI and this Act, and shall organize the cabinet into the offices, divisions, regions, districts, and other administrative units as the secretary deems necessary to perform the functions, exercise the powers, and fulfill the duties of the cabinet.

(2) The secretary shall have any and all necessary powers and authority subject to appropriate provisions of the statutes to create the positions and employ the necessary personnel in the positions to enable the cabinet to fulfill all functions assigned to it. The secretary shall designate a person to act as deputy for the secretary in the exercise of duties in the secretary's absence.

(3) The secretary shall, with the approval of the Governor, elect coverage for employees of the cabinet under the unemployment insurance law when required by federal law.

SECTION 34. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the welfare, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Institute for Aging or the Council for Families and Children to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless issued under the authority of

the secretary, and the secretary shall not delegate this authority. All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.

SECTION 35. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary shall develop and promulgate administrative regulations that protect the confidential nature of all records and reports of the cabinet that directly or indirectly identify a client or patient or former client or patient of the cabinet and that insure that these records are not disclosed to or by any person except as, and insofar as:

(a) The person identified or the person's guardian, if any, shall give consent; or

(b) Disclosure may be permitted under state or federal law.

(2) The cabinet may share pertinent information from within the agency's records on clients, current and former clients, recipients, and patients as may be permitted by federal and state confidentiality statutes and regulations governing release of data with other public, and quasi-public, and private agencies involved in providing services to current or former clients or patients subject to confidentiality agreements as permitted by federal and state law if those agencies demonstrate a direct, tangible, and legitimate interest in the records. In all instances, the individual's right to privacy is to be respected.

SECTION 36: A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet is authorized to utilize and promote available or potential community resources for the delivery of services and shall, when it deems appropriate, contract for services with local, community, and private agencies when the services would not otherwise be available without cost. The cabinet and local, community, and private agencies operating on contract with the cabinet may charge for services rendered when this would be in accordance with applicable state law.

SECTION 37. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The secretary shall arrange for the development of a cost allocation plan by the cabinet. The cost allocation shall be developed in accordance with generally recognized accounting practices and shall make provisions for the distribution of operational and administrative costs of all organizational units of the cabinet to all programs operated by the cabinet that receive services or are otherwise benefited by the operations of those organizational units.

SECTION 38. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet shall include citizen advisory bodies within its structure to provide independent advice from the general public. The citizen bodies within the cabinet shall have the following structure:

(1) A Council for Families and Children is created within the cabinet.

(a) The council shall advise the secretary for families and children, the commissioner for social insurance, the commissioner for social services, and other officials of the Commonwealth on policy matters relating to the human service needs.

(b) The council shall be composed of no more than twenty-one (21) citizen members appointed by the Governor. Members of the council shall be chosen to broadly represent public interest groups concerned with social insurance and social service programs operated by the Commonwealth, professionals involved in the delivery of human services, minority groups, the poor, the disadvantaged, recipients of human services provided by the state, and the general public. The Governor shall appoint the chair of the council. The secretary for families and children, the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council, and the commissioners for social insurance and social services shall be staff directors for, and secretaries to, the council. The council shall meet at least quarterly and on other occasions as may be necessary, on call of the secretary for families and children. A majority of appointed members shall constitute a quorum.

(2) An Institute for Aging is created within the cabinet.

(a) The institute shall advise the secretary for families and children and other officials of the Commonwealth on policy matters relating to the development and delivery of services to the aged.

(b) The institute shall be composed of no more than fifteen (15) citizen members appointed by the Governor. Members of the institute shall be chosen to broadly represent public interest groups concerned with the needs of the aged, professionals involved in the delivery of services to the aged, minority groups, recipients of state-provided services to the aged, and the general public. The Governor shall appoint a chair of the institute. The secretary for families and children shall be a nonvoting, ex officio member of, staff director for, and

secretary to, the institute. The institute shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for families and children. A majority of the appointed members shall constitute a quorum.

SECTION 39. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

No corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, attached to or within the cabinet, shall expend funds, hire employees, issue grants, or otherwise engage in the normal administrative processes of the cabinet. All of these bodies shall be provided administrative and support services by the cabinet.

SECTION 40. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

When the Institute for Aging and the Council for Families and Children are assigned a responsibility for qualifying the Commonwealth for federal programs with representations and membership formulas that conflict with a particular council's membership, the secretary shall have the authority to create special subcommittees to these citizens' bodies that meet federal requirements.

SECTION 41. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

Whenever federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice Cabinet, the secretary for Natural Resources and Environmental Protection, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, the secretary of the Public Protection and Regulation Cabinet, or the secretary of the Labor Cabinet or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

SECTION 42. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The secretary and other state officials with the approval of the secretary may designate alternates or representatives to serve in their capacity as members of all boards, committees, councils, institutes, and other similar bodies within or attached to the cabinet, and the secretary or the secretary's designee shall be an ex officio member of all boards, committees, councils, institutes, commissions, and other similar bodies within or attached to the cabinet.

SECTION 43. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The secretary is authorized to create special task forces, technical advisory committees, and other citizens' panels as may be necessary to support the operations of the cabinet. No other officials of the cabinet shall be authorized to create citizens' panels associated with the cabinet, its programs, or suborganzational units, and the secretary shall not delegate this authority.

SECTION 44. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

All administrative regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, interstate compacts, or other statutory bodies, transferred in whole or in part to the Institute for Aging, shall remain in effect as administrative regulations, acts, determinations, and decisions of the cabinet unless duly modified or repealed by the secretary.

SECTION 45. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The Institute for Aging and the Council for Families and Children shall be empowered to accept gifts and grants, but all of these moneys shall be administered by the cabinet, which shall administer these funds through appropriate trust and agency accounts.

SECTION 46. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The members of the Institute for Aging and the Council for Families and Children shall receive no compensation for their services but shall be allowed the necessary expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be held to be a public officer by reason of membership on a council.

SECTION 47. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet shall make an annual report to the Governor, the General Assembly, and the Chief Justice. The report shall be tendered not later than December 1 of each year and shall include information for the pervious fiscal year. The report shall include, but not be limited to, the following information:

(1) The number of children under an order of dependent, status, public, or voluntary commitment to the cabinet, according to: permanency planning goals, current placement, average number of placements, type of commitment, and the average length of time children remain committed to the cabinet;

(2) The number of children in the custody of the cabinet in the following types of residential placements, the average length of stay in these placements, and the average number of placements experienced by these children: family foster homes, private child care facilities, and placement with biological parent or person exercising custodial control or supervision;

(3) The number of children in the custody of the cabinet eligible for adoption, the number placed in an adoptive home, and the number ineligible for adoption and the reasons therefor;

(4) The cost in federal and state general funds to care for the children defined in subsections (1) and (2) of this section, including the average cost per child for each type of placement, direct social worker services, operating expenses, training, and administrative costs; and

(5) Any other matters relating to the care of foster children that the cabinet deems appropriate and that may promote further understanding of the impediments to providing permanent homes for foster children.

SECTION 48. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The Cabinet for Families and Children shall provide professional development for staff employed by the cabinet or by local public agencies in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each staff person who is employed by the cabinet or by a local public agency and who works with children or with families shall successfully complete the professional development program in order to remain assigned to child or family programs. The cabinet shall specify the manner of professional development and related matters by administrative regulation.

SECTION 49. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

As used in Section 50 of this Act:

(1) "Assistance program" means any program administered by the cabinet.

(2) "Benefit" means receipt of money, goods, or anything of pecuniary value from an assistance program; and

(3) "False statement or misrepresentation" means a statement or representation knowingly made by a person to be false.

SECTION 50. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) No person shall, with intent to defraud, knowingly make a false statement or misrepresentation or by other means fail to disclose a material fact used in determining the person's qualification to receive benefits under any assistance program.

(2) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(3) No person shall, with intent to defraud, fail to report a change in the factors affecting the person's eligibility for benefits.

(4) No person having responsibility for the administration of an assistance program shall, having knowledge that it is in violation of the law, knowingly aid or abet any person in obtaining benefits to which the person is not legally entitled, or in obtaining a benefit amount greater than that to which the person is fully entitled.

(5) No person shall misappropriate or attempt to misappropriate a food stamp authorization to purchase card, food stamp identification card, or misappropriate other benefits from any program with which the person has been assigned responsibility, nor shall the person knowingly fail to report any of these activities when it same is clearly in violation of the law.

(6) No person shall, with intent to defraud or deceive, devise a scheme or plan a scheme or artifice to obtain benefits from any assistance program by means of false or fraudulent representations or intentionally engage in conduct that advances the scheme or artifice.

(7) No person shall aid and abet another individual in acts prohibited in subsections (1) to (6) of this section knowing it to be in violation of the law.

(8) The Attorney General on behalf of the Commonwealth of Kentucky may commence proceedings to enforce this section, and the Attorney General shall in undertaking these proceedings exercise all powers and perform all duties that the prosecuting attorney would otherwise perform or exercise.

SECTION 51. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

In any prosecution for the violation of Section 50 of this Act, it shall be a defense if the person relied on the advice of an employee or agent of the cabinet.

SECTION 52. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

For the purpose of enforcing the provisions of Section 50 of this Act and of investigating any assistance program administered by the cabinet, the designated agents of the cabinet shall have the same access as peace officers to records *maintained under KRS 17.150.*

SECTION 53. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary for families and children shall develop an initial training course and continuing education courses for employees of the Department for Social Services concerning the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victim services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(2) Each person employed by the Department for Social Services who provides supervisory or direct service at the local, district, or state level shall successfully complete the initial training course and, at least once every two (2) years, the continuing education course developed under subsection (1) of this section.

SECTION 54. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The secretary for families and children shall promulgate administrative regulations under KRS Chapter 13A setting forth the requirements for initial training courses and continuing education courses for staff of agencies providing protective shelter services for victims of domestic violence. The components of the training shall include the dynamics of domestic violence, effects of domestic violence on adult and child victims, legal remedies for protection, lethality and risk issues, model protocols for addressing domestic violence, available community resources and victims services, and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence.

(2) Each agency providing protective shelter services for victims of domestic violence shall develop and provide initial training courses and, at least once every two (2) years; continuing education courses which comply with the requirements developed pursuant to subsection (1) of this section, for staff of the agency.

SECTION 55. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

As used in Sections 55 to 58 of this Act:

(1) "Cabinet" means the Cabinet for Families and Children;

(2) "Council" means the Alzheimer's Disease and related Disorders Advisory Council;

(3) "Dementia" means Alzheimer's disease and related dementia illnesses and disorders; and

(4) "Office" means the Office on Alzheimer's Disease and Related Disorders.

SECTION 56. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The Office of Alzheimer's Disease and Related Disorders is established within the cabinet. The purpose of the office is to oversee information and resources related to policy and services affecting the sixty thousand (60,000) residents of Kentucky with dementia, and the caregivers and families of the residents.

(2) The director of the office shall be a full-time, permanent employee and shall be responsible for the staffing and operational details of the office. A report on the start-up and implementation of the office shall be made to the Interim Joint Committee on Health and Welfare by September 30, 1998, and on a quarterly basis thereafter.

(3) The office shall:

- *(a) Enhance the quality of life for persons affected by dementia and for their caregivers;*
- *(b) Recommend the delivery of services in the most effective and efficient manner possible to facilitate the needs of people with dementia and their caregivers, after consultation with other agencies of state government that work with dementia-related illness;*
- *(c) Determine ways the Commonwealth may secure additional federal and private funding to provide additional services and programs through a coordinated effort;*
- *(d) Apply for any public or private funding relating to dementia that will enhance the office's abilities to perform its duties under this section;*
- *(e) Promote public and professional awareness and education of dementia and access to needed services and programs;*
- *(f) Oversee and receive reports from the Alzheimer's Disease and Related Disorders Advisory Council; and*
- *(g) Coordinate and oversee the implementation of the recommendations of the 1995 Governor's Task Force on Alzheimer's Disease and Related Disorders.*

SECTION 57. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) The Alzheimer's Disease and Related Disorders Advisory Council is created. The council shall report directly to the office.

(2) The council shall be comprised of a minimum of fifteen (15) members appointed by the Governor. Three (3) members shall represent agencies of state government dealing with dementia, three (3) shall represent local health departments, one (1) shall represent the University of Kentucky Alzheimer's Disease Research Center at the Sanders-Brown Center on Aging, at least one (1) shall be appointed from each of the chapters of the Alzheimer's Disease and Related Disease Association that serve the Commonwealth, and the remainder shall represent consumers, health care providers, and the medical research community. Members who are not state employees shall be reimbursed for necessary and actual expenses. The council shall meet quarterly. A majority of the members shall constitute a quorum for the transaction of the council's business.

(3) The council shall:

(a) Elect its own chairperson and establish other officers and subcommittees as needed to execute the duties of the council;

(b) Adopt bylaws and operate under its bylaws;

(c) Select the director of the office;

(d) Establish and evaluate goals and outcomes for the office that may facilitate treatment and care of persons with dementia;

(e) Assist with the dissemination of information about the availability of program materials, education materials, and curriculum guides; and

(f) Prepare a report of its activities, at least annually, for submission to the office.

(4) The office shall provide requested personnel to assist the council in fulfilling its responsibilities.

SECTION 58. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations under KRS Chapter 13A sufficient to implement Sections 55 to 58 of this Act.

SECTION 59. A NEW SECTION OF KRS CHAPTER 194B IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the provisions of subsections (1), (2), and (7) of Section 50 of this Act shall be guilty of a Class A misdemeanor, unless the sum total of benefits received in excess of that to which the person was entitled at the time the offense was committed is valued at or over one hundred dollars ($100), in which case it is a Class D felony.

(2) Any person who violates subsection (3) of Section 50 of this Act shall be guilty of a Class D felony.

(3) Any person who violates the provisions of subsections (4) and (5) of Section 50 of this Act shall be guilty of a Class C felony.

(4) Any person who violates the provisions of subsection (6) of Section 50 of this Act shall be guilty of a Class D felony, unless the purpose of the violation is to obtain ten thousand dollars ($10,000) or more, in which case it shall be a Class C felony.

(5) Any person who violates subsections (1) to (6) of Section 50 of this Act shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.

Section 60. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for *Health Services, the Cabinet for Families and Children*[~~Human Resources~~], the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism Cabinet, the Labor Cabinet, the commissioner of the Department of Personnel, the secretary of the Governor's Executive Cabinet, the State Budget Director, the Governor's Chief of Staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 61. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Medical Examiner Program.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.
            (2) Education Professional Standards Board.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.
        (d) Kentucky Educational Television.
        (e) Kentucky Historical Society.
        (f) Kentucky Teachers' Retirement System Board of Trustees.
        (g) Kentucky Center for the Arts.
        (h) Kentucky Craft Marketing Program.

(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for ***Families and Children***[~~Human Resources~~]:

(a) [~~Department for Health Services.~~
~~(b)~~]Department for Social Insurance.
(***b***)[~~(c)~~]Department for Social Services.
[~~(d) Department for Medicaid Services.~~
~~(e) Department for Mental Health and Mental Retardation Services.~~
~~(f) Commission for Children with Special Health Care Needs.~~]
(c)[~~(g)~~]Public Assistance Appeals Board.
(d) Office of the Secretary.
[~~(h) Office of Administrative Services.~~
~~(i) Office of Communications.~~]
(e)[~~(j)~~] Office of General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
[~~(k) Office of Inspector General.~~
~~(l) Office of Policy and Budget.~~]
(i)[~~(m)~~] Office of the Ombudsman.
(j) Office of Aging Services.

8. ***Cabinet for Health Services.***
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.

(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

10.[~~9.~~] Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11.[~~10.~~] Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

12.[~~11.~~] Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

13.[~~12.~~] Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.

(m) Office of Development and Industry Relations.

(n) Office of Workforce Analysis and Research.

(o) Office for Administrative Services.

(p) Office for Policy, Budget, and Personnel.

(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
   (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 62. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education, Arts, and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for ***Health Services***[~~Human Resources~~].

(8) ***Cabinet for Families and Children.***

(9) Finance and Administration Cabinet.

(10)[~~(9)~~] Tourism Cabinet.

(11)[~~(10)~~] Revenue Cabinet.

(12)[~~(11)~~] Labor Cabinet.

(13)[~~(12)~~] Cabinet for Workforce Development.

Section 63. KRS 13B.020 is amended to read as follows:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410

b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

(b) ***Cabinet for Health Services***~~[Health Policy Board]~~

1. ***Office of Certificate of Need***

a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B

b.~~[2.]~~ Licensure revocation hearings conducted under authority of KRS Chapter 216B

(c) Cabinet for ***Families and Children***~~[Human Resources]~~

1. ~~[Department for Employment Services~~

~~a. Unemployment insurance hearings conducted under authority of KRS Chapter 341~~

~~2. Department for Health Services~~

~~a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404~~

~~3.~~]Department for Social Services

a. Supervised placement revocation hearings conducted under authority of KRS ***Chapter***~~[Chapters]~~ 630~~[and 635]~~

2. Department for Social Insurance

a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(d) Justice Cabinet

1. Department of State Police

a. State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

a. Parole Board hearings conducted under authority of KRS Chapter 439

b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197

c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department for Juvenile Justice

a. Supervised placement revocation hearings conducted under authority of KRS Chapter 635

(e) Labor Cabinet

1. Department of Workers' Claims

a. Workers' compensation hearings conducted under authority of KRS Chapter 342

(f) Natural Resources and Environmental Protection Cabinet

1. Department for Surface Mining Reclamation and Enforcement

a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

a. Wild River hearings conducted under authority of KRS Chapter 146

b. Water resources hearings conducted under authority of KRS Chapter 151

c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

d. Environmental protection hearings conducted under authority of KRS Chapter 224

(g) Kentucky Occupational Safety and Health Review Commission

1. Occupational safety and health hearings conducted under authority of KRS Chapter 338

(h) Public Protection and Regulation Cabinet

1. Board of Claims

a. Liability hearings conducted under authority of KRS Chapter 44

2. Public Service Commission

a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279

(i) ***Workforce Development Cabinet***

1. Department for Employment Services

a. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(j) Secretary of State

1. Registry of Election Finance

a. Campaign finance hearings conducted under authority of KRS Chapter 121

(k)[~~(j)~~] State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164

2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164

3. Campus residency hearings conducted under authority of KRS Chapter 164

4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; ***or***

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Section 64. KRS 15.290 is amended to read as follows:

(1) There is hereby established in the Department of Law the Child Support Enforcement Commission which shall consist of nine (9) members as prescribed below:

(a) The Attorney General, or ***a***[~~his~~] designee, who shall also serve as chairman;

(b) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], or his designee, who shall also serve as vice chairman;

(c) The director of the Administrative Office of the Courts, or his designee;

(d) The director of the Division ***of***[~~for~~] Child Support Enforcement within the Cabinet for ***Families and Children***[~~Human Resources~~]; and

(e) The remaining five (5) members shall be appointed by the Governor for terms of four (4) years, except that the initial appointments shall be made in the following manner: One (1) member for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Each member shall serve until a successor is named and any appointment, due to vacancy, shall be for the unexpired term. The remaining five (5) members shall be appointed in the following manner: three (3) members from a list of nine (9) nominees submitted by the Kentucky County Attorney Association, with one (1) of the three members representing either a first class or urban-county government, and two (2) citizen-at-large members.

(2) The secretary of the cabinet shall reimburse to the Department of Law such an amount as incurred related to the function of the commission. The secretary shall provide such information as may be requested by the commission.

(3) The commission shall meet at least quarterly and may meet additional times as may be deemed necessary by the chairman.

(4) Reimbursement for actual travel expenses shall be paid by the Department of Law for commission members, if members are not otherwise eligible for such reimbursement from their respective agency.

(5) The commission shall have the following responsibilities:

(a) Advise the Governor on any issue related to the child support program;

(b) Advise the Cabinet for ***Families and Children***[~~Human Resources~~] on any issue related to the child support program;

(c) Advise the Department of Law on any issue related to the child support program;

(d) Advise the Administrative Office of the Courts on any issue related to the child support program;

(e) Provide a regular forum for all parties involved in the child support program to address any aspect of the administrative or judicial process;

(f) Develop and prepare reports and recommendations related to administrative procedures, prosecution, judicial procedures, state or federal legislation; or any other matters which might improve program effectiveness and efficiency; and

(g) Initiate recommendations to facilitate interaction between local officials and the cabinet.

(6) The commission shall prepare and issue an annual report not later than August 15 of each year for the preceding fiscal year which includes a performance assessment for all aspects of the program. The report shall include recommendations to improve performance and service delivery. The report shall be submitted to the Governor and the Legislative Research Commission. The first report shall be due August 15, 1989.

(7) Nothing in this section shall be construed as modifying the designation of the single state agency as required under the Federal Title IV-D plan.

Section 65. KRS 15.333 is amended to read as follows:

(1) The Kentucky Law Enforcement Council shall develop in conjunction with the Cabinet for ***Families and Children***[~~Human Resources~~] an educational program on human immunodeficiency virus infection and acquired immunodeficiency virus syndrome of not more than four (4) hours to be delivered by the Department of Criminal Justice Training to all law enforcement officers subject to the provisions of KRS 15.440 or 61.300. The educational program shall be completed annually.

(2) The educational program may be a part of any continuing education program offered by the Department of Criminal Justice Training.

Section 66. KRS 15.706 is amended to read as follows:

(1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.

(2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], the commissioner of the Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.

(3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.

(4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.

(5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.

(6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.

(7) The public report shall not contain the name or identifying information of a victim or person not formally charged with

the commission of child sexual abuse. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.

(8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

Section 67. KRS 15.910 is amended to read as follows:

(1) The state board shall be composed of the following members:

(a) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], the secretary of the Finance and Administration Cabinet, the chief state school officer, the commissioner of the State Police, and the Attorney General, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

Section 68. KRS 15.942 is amended to read as follows:

The Justice Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for ***Families and Children***[~~Human Resources~~] shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health care professionals needed for implementation of training programs.

Section 69. KRS 15.944 is amended to read as follows:

The Attorney General, Justice Cabinet, Administrative Office of the Courts, and Cabinet for ***Families and Children***[~~Human Resources~~] shall provide an in-service training program for Commonwealth's and county attorneys and their assistants in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each Commonwealth's and county attorney and each assistant Commonwealth's and county attorney shall attend the in-service training.

Section 70. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a)[~~(1)~~] Prevention of juvenile crime;

(b)[~~(2)~~] Identification of juveniles at risk of becoming status or public offenders and early intervention strategies for these children;

(c)[~~(3)~~]Providing services to law enforcement, prosecution, victims, defense attorneys, and the public relating to juvenile crime, its prevention, detection, trial, punishment, and rehabilitation, and services for youth adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(d)[~~(4)~~] The operation of or contracting for the operation of preadjudication facilities for children charged with public offenses;

(e)[~~(5)~~]The operation of or contracting for the operation of postadjudication treatment facilities for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(f)[~~(6)~~] The operation of or contracting for the operation of preadjudication alternatives to detention and follow-up programs for children who are before the court and who enter pretrial diversion or informal adjustment programs;

(g)[~~(7)~~] The operation of or contracting for the operation of postadjudication alternatives to detention and follow-up programs, including but not limited to community based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of detention while achieving solutions to the child's problems and ensuring public safety;

(h)[~~(8)~~] The operation or contracting for the operation of by the department, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(i)[~~(9)~~] Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(j)[~~(10)~~] Conducting research and comparative experiments to find the most effective means of:

1.[~~(a)~~] Preventing delinquent behavior;

2.[~~(b)~~] Identifying predelinquent youth;

3.[~~(c)~~] Preventing predelinquent youth from becoming delinquent;

4.[~~(d)~~] Assessing the needs of predelinquent and delinquent youth;

5.[~~(e)~~] Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6.[~~(f)~~] Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

7.[~~(g)~~] Keeping the department, the educational community, police, prosecutors, the courts, and the public abreast of the latest programs, technology, counseling tools, and other aspects of juvenile counseling, correction, and treatment; ***and***

(h)[~~(11)~~] Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2)[~~(12)~~] The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

(3)[~~(13)~~] The Department of Juvenile Justice may contract with the cabinet for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments.

(4)[~~(14)~~] The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall provide a formulation of and recommendations for meeting the requirements of this section not less than semiannually to the Governor, the Justice Cabinet, the Department of Juvenile Justice, the Cabinet for ***Families and Children***[~~Human Resources~~], the Interim Joint Committees on Judiciary and Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and Appropriations and Revenue committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall meet not less than quarterly. The advisory board shall be chaired by a private citizen member appointed by the Governor. The advisory board shall consist of one (1) member of each of the following:

1. Justice Cabinet;
2. Department of Juvenile Justice;
3. Cabinet for ***Families and Children***[~~Human Resources~~];
4. Department for Medicaid Services;
5. Department of Education;
6. Department of Public Advocacy;
7. Administrative Office of the Courts;
8. Workforce Development Cabinet;
9. Attorney General;
10. Kentucky Developmental Disabilities Council;
11. Circuit Judges Association;
12. District Court Judges Association;
13. Commonwealth's Attorneys Association;

14. County Attorneys Association;
15. County Judge/Executives Association;
16. A person eighteen (18) to twenty-five (25) years of age not associated with any other group listed in this paragraph;
17. A person from the business community not associated with any other group listed in this paragraph;
18. A parent not associated with any other group listed in this paragraph;
19. A youth advocate not associated with any other group listed in this paragraph;
20. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
21. A local school district special education administrator not associated with any other group listed in this paragraph;
22. A peace officer not associated with any other group listed in this paragraph; and
23. A college or university professor specializing in law, criminology, corrections, or similar discipline with an interest in juvenile corrections programs.

Section 71. KRS 15A.190 is amended to read as follows:

(1) The Justice Cabinet in consultation with the Cabinet for ***Families and Children***[~~Human Resources~~], the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, or any other particular area of criminal activity deemed by the secretary of justice to require research as to its frequency.

(2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 1979.

Section 72. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 and ***KRS*** 15A.990:

(1) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for ***Families and Children***[~~Human Resources~~] and other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(3) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed exclusively by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners; and

(4) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.

Section 73. KRS 16.095 is amended to read as follows:

(1) The Justice Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for ***Health Services***[~~Human Resources~~] on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, nonreceipt of allowance does not exclude a law enforcement officer from the training required in this section.

(2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he shall be suspended from further service as an officer until he successfully completes the required training.

Section 74. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; State Police,

state fire marshal, Board of Alcoholic Beverage Control; Cabinet for ***Health Services; Cabinet for Families and Children***~~[Human Resources]~~; Transportation Cabinet; Department of Corrections; and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal ***the juvenile's or the juvenile's***~~[his or his]~~ parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in the records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice.

Section 75. KRS 17.460 is amended to read as follows:

(1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Social Services of the Cabinet for ***Families and Children***~~[Human Resources]~~ if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet which shall include information the Justice Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.

(b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~] in the jurisdiction of the law enforcement agency.

(c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court designated worker with jurisdiction for placement determination.

(d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.

(5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 76. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates subsection (4) of KRS 17.165 may be liable for license revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for ***Families and Children***[~~Human Resources~~]; and

(b) In addition to penalties listed in this subsection, any child-care center which violates subsection (4) of KRS 17.165 shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 77. KRS 18A.030 is amended to read as follows:

(1) The commissioner shall be the executive and administrative head of the department and shall supervise and control all examinations and work of the department. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the commissioner shall appoint and supervise the staff needed in the department to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.

(2) Subject to the provisions of this chapter and KRS Chapter 13A, the commissioner shall, with the aid of his staff:

(a) Attend all meetings of the board;

(b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;

(c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;

(d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;

(e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;

(f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;

(g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;

(h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;

(i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

(j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for ***in KRS 18A.005 to 18A.200***[~~herein~~];

(k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;

(l) Make a report and submit the same to the board, the Legislative Research Commission and the Governor not later than October first of each year; ***and***

(m) Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.

(3) The commissioner on behalf of the department may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.

(4) The commissioner shall keep records relative to employee turnover and report to the board, the Governor and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the commissioner shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor and the Legislative Research Commission.

(5) The commissioner shall provide to each new state employee and to each state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for ***Health Services***~~[Human Resources]~~ and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures and referral services.

Section 78. KRS 18A.180 is amended to read as follows:

(1) Subject to the approval of the board, the commissioner may enter into agreements with any municipality or other political subdivision of the Commonwealth to furnish services and facilities of the department to ***the***~~[such]~~ municipality or political subdivision in the administration of its personnel on merit principles. Any such agreement shall provide for the reimbursement to the department, under contract, of the reasonable cost of the services and facilities furnished, as determined by the commissioner. All municipalities and political subdivisions of the Commonwealth are hereby authorized to enter into ***these***~~[such]~~ agreements.

(2) The commissioner may cooperate with the governmental agencies of other jurisdictions charged with personnel administration in conducting joint tests and establishing joint lists from which eligibles shall be certified for appointment in accordance with the provisions of KRS 18A.005 to 18A.200.

(3) The commissioner may, upon the request of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and upon the approval of the board, furnish merit system services to "local" departments of health.

Section 79. KRS 27A.080 is amended to read as follows:

(1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.

(2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.

(3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for ***Families and Children***~~[Human Resources]~~, the Justice Cabinet, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 80. KRS 39.407 is amended to read as follows:

In performing his duties under this chapter, the adjutant general, with approval of the Governor, is authorized and empowered:

(1) To prepare a comprehensive plan and program for the disaster and emergency response of this state, such plan and program to be integrated into and coordinated with the disaster and emergency response plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs by areawide organizations, metropolitan governments, counties, and cities of this state for disaster and emergency response, such plans to be integrated into and coordinated with the disaster and emergency response plan and program of this state to the fullest possible extent;

(2) In accordance with such plan and program for the disaster and emergency response of this state, to ascertain the requirements of the state and of the counties and cities thereof for food or clothing or other necessities of life in the event of disaster or attack and to plan for and procure supplies, medicines, materials, and equipment, and to use and employ from time to time any of the property, services, and resources within the state, for the purposes set forth in this chapter; to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of disaster and emergency response organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of disaster and emergency response personnel in time of need;

(3) To cooperate with the President of the United States, the chiefs of the Armed Forces, and the civil preparedness agency

of the United States, and officers and agencies of other states in matters pertaining to the disaster and emergency response of the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the President and the appropriate federal officers and agencies, for any action looking to civil preparedness, including the direction or control of blackouts and practice blackouts, mobilization of disaster and emergency response forces, and other tests and exercises, warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith, the effective screening or extinguishing of all lights and lighting devices and appliances, the shutting off of water mains, gas mains, electric power connections, and the suspension of all other utility services, the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack, public meetings or gatherings and the evacuation and reception of the civilian population;

(4) To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this chapter, and with the orders, rules, and regulations made pursuant thereto;

(5) To employ such measures and give such directions to the secretary for ***health services***[~~human resources~~] or the local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this chapter, or with the findings or recommendations of such secretary or boards of health by reason of conditions arising from disasters, emergency situations, enemy attack, or the threat thereof or otherwise;

(6) To utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof; and all such officers and agencies shall cooperate with and extend their services and facilities to the director as he may request;

(7) To establish agencies and offices and to appoint executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of this chapter;

(8) To delegate any authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(9) On behalf of this state, pursuant to executive order of the Governor or act of the General Assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide basis or local county or city basis or with a neighboring state or province of a foreign country. Such mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies, engineering services, emergency housing, police services, national or state guards while under the control of the state, health, medical, and related services, firefighting, rescue, transportation, and construction services and equipment, personnel necessary to provide or conduct these services, and such other supplies, equipment, facilities, personnel, and services as may be needed, the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, firefighting, and police units and health units, and on such terms and conditions as are deemed necessary;

(10) To sponsor and develop mutual aid plans and agreements among the areawide organizations, metropolitan governments, counties, and cities of the state, similar to the mutual aid arrangements with other states referred to above;

(11) To recommend to the state planning committee the allocation of such funds as may be necessary to the Department of Local Government to be distributed to the area development districts for the development of emergency response plans and programs for the local governments and the area served by the area development districts, or a functional committee thereof.

Section 81. KRS 42.560 is amended to read as follows:

(1) There is[~~ hereby~~] established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund"[~~ herein~~] referred to ***in KRS 42.560 to 42.574*** as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management and Economic Analysis and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time not exceeding ten (10) years from February 19, 1988. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for ***Families and Children***[~~Human Resources~~] with fifty percent (50%) of the interest allocated to weatherization services to low income households and fifty percent (50%) of the interest allocated to low income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS

48.300.

Section 82. KRS 42.566 is amended to read as follows:

(1) The funds appropriated by the General Assembly shall be expended in a manner consistent with the judgments and settlements, as amended, which produced the oil overcharge refunds, as follows:

(a) The sum of five hundred thousand dollars ($500,000) or eight percent (8%) of the amount appropriated each fiscal year, whichever is greater, shall be distributed annually to the Natural Resources and Environmental Protection Cabinet for expenditure in the Institutional Conservation Program established pursuant to Part G of Title III of the Energy Policy and Conservation Act, 42 U.S.C. Section 6371 et seq. The source of these funds shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No. 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v. Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest accumulated thereon.

(b) The balance of the trust funds appropriated for expenditure in any fiscal year shall be distributed to the Cabinet for ***Families and Children***[~~Human Resources~~] and allocated as follows:

1. Forty percent (40%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for weatherization of low-income households established pursuant to Part A of the Energy Conservation and Existing Buildings Act of 1976, 42 U.S.C. Section 6861 et seq.; and
2. Sixty percent (60%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for energy crisis or prevention services for low-income households established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. Section 8621 et seq.

Section 83. KRS 42.665 is amended to read as follows:

(1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Finance and Administration Cabinet.

(2) The membership of the board shall consist of the following:

(a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;

(b) The commissioner of the Department for ***Public*** Health[~~ Services~~], or the commissioner's designee;

(c) The commissioner of the Department of Education, or the commissioner's designee;

(d) The commissioner of the Kentucky State Police, or the commissioner's designee;

(e) The Kentucky state fire marshal, or the fire marshal's designee;

(f) The executive director of the Division of Disaster and Emergency Services, or the executive director's designee;

(g) The Attorney General, or the Attorney General's designee;

(h) One (1) representative of local community crisis response teams appointed by the Governor;

(i) Four (4) members appointed by the Governor to represent mental health disciplines;

(j) Two (2) members appointed by the Governor to represent emergency services disciplines; and

(k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board.

(3) All board members appointed pursuant to subsections (2)(h) to (2)(k) of this section shall be approved members of the existing community crisis response team.

(4) All board members appointed pursuant to subsections (2)(h) to (2)(k) of this section shall have demonstrated a commitment to the provision of community crisis response services.

(5) The members of the board appointed by the Governor shall serve for two (2) years, and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.

(6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.

(7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.

(8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 42.670(7), nothing in KRS 42:660 to 42.680

shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

Section 84. KRS 45.236 is amended to read as follows:

Notwithstanding the provisions of KRS 45.229 and notwithstanding any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any social security appropriation, made available for expenditure by the Cabinet for ***Families and Children***[~~human resources~~] in the administration of its child welfare functions for the first fiscal year of each biennium, remaining at the end of ***that***[~~such~~] fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion shall lapse to the general expenditure fund.

Section 85. KRS 45.850 is amended to read as follows:

(1) Appropriations for the capital construction and for the operating budget of a nuclear waste disposal site owned by the Commonwealth shall be set forth as a major program cost in the executive budget document for the Natural Resources and Environmental Protection Cabinet.

(2) Appropriations for the regulating and monitoring of a nuclear waste disposal site owned by the Commonwealth shall be set forth as a major program cost in the executive budget document for the Cabinet for ***Health Services***[~~Human Resources~~]. Monitoring and water sampling and analyses shall be maintained and budgeted for at a level to provide frequent and continuing evidence of the safety of the site.

(3) Operating costs associated with the daily maintenance of the site in excess of allocations budgeted to the Natural Resources and Environmental Protection Cabinet, regulating and monitoring costs associated with normal surveillance of the site in excess of allocations budgeted to the Cabinet for ***Health Services***[~~Human Resources~~] and costs associated with an emergency at the site so declared by the Governor shall be deemed necessary governmental expenses.

(4) In the event a request for funds is made pursuant to subsection (3) of this section, a copy of ***the***[~~such~~] request and the justification for additional funds shall be forwarded to the office of the Legislative Research Commission and to the Governor at the time the request is made but no later than fifteen (15) days prior to the actual expenditure of additional funds. The Legislative Research Commission or its designated subcommittee may request further explanation of the need for additional funds.

(5) Subsections (3) and (4) of this section shall apply only to sites located in the Commonwealth prior to July 15, 1980.

Section 86. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Resources Management Commission, hereafter called the "commission." It shall be the responsibility of the commission to coordinate and guide the application of information technologies and resources in the executive branch of state government.

(2) The commission shall consist of:

    (a) Three (3) cabinet secretaries from the executive branch, at least one (1) of whom shall be from either the Transportation[~~ or Human Resources~~] Cabinet***, the Cabinet for Families and Children, or the Cabinet for Health Services***, appointed by the Governor, or their respective designees;

    (b) The state budget director or his designee;

    (c) The commissioner of the Department of Information Systems;

    (d) The State Librarian or his designee;

    (e) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;

    (f) Two (2) citizen members from the private sector with information resources management knowledge and experience to be appointed by the Governor;

    (g) One (1) representative of local government appointed by the Governor from a list of six (6) persons, three (3) to be submitted by the president of the Kentucky League of Cities, and three (3) to be submitted by the president of the Kentucky Association of Counties;

    (h) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association;

    (i) The executive director of the Kentucky Authority for Educational Television;

    (j) The chairman of the Communications Advisory Council as an ex officio, nonvoting member; and

    (k) The chairman of the Geographic Information Advisory Council as an ex officio, nonvoting member.

(3) The commission shall select from its membership a chairperson and any other officers it considers essential. A member of the commission shall not:

    (a) Be an officer, employee, registered legislative agent, Executive Branch lobbyist, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the information resources technology industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the information resources technology industry;

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with information resources systems, the computers on which they are automated, or a service related to information resources systems; or

(d) Receive anything of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise.

(4) (a) It shall be a ground for removal of a member of the commission if the member:

1. Does not maintain during service on the commission the qualifications or status required for initial appointment to the commission;

2. Violates a prohibition established by subsection (3) of this section; or

3. Is absent from three (3) consecutive meetings or more than half of the regularly-scheduled commission meetings that the member is eligible to attend during a state fiscal year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairperson of the commission has knowledge that a potential ground for removal of a commission member exists, the chairperson shall notify the Governor of the potential ground for removal.

(5) (a) The term of office of the members specified in subsection (2)(b), (c), (d), (i), (j), and (k) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(b) The terms of the cabinet secretaries appointed pursuant to subsection (2)(a) of this section shall be established in the commission's operating policies or bylaws not to be less than two (2) years.

(6) Members of the commission appointed pursuant to subsection (2)(e), (f), (g), and (h) of this section shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(8) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 87. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the "council," to the Kentucky Information Resources Management Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Resources Management Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of ***twenty-six (26)***[~~twenty-five (25)~~] members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;

2. The secretary of the Cabinet for ***Health Services and Families and Children***[~~Human Resources~~] or his designee;

3. The director of the Kentucky Geological Survey or his designee;

4. The secretary of the Revenue Cabinet or his designee;

5. The commissioner of the Department of Information Systems or his designee;

6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 88. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor, Lieutenant Governor and the Superintendent of Public Instruction, the heads of departments and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education and humanities	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Secretary of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice	50,000
Secretary of corrections	25,000
Commissioner for health services	10,000
Secretary of labor	5,000
Commissioner of surface mining reclamation and enforcement	50,000
State librarian	5,000
Commissioner of mines and minerals	5,000
Commissioner of alcoholic beverage control	10,000
Commissioner of financial institutions	25,000
Secretary for natural resources and environmental protection	10,000
Commissioner of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for ***health services***~~[human resources]~~	20,000
Secretary for families and children	***20,000***
Commissioner for environmental protection	10,000
Secretary for public protection and regulation	10,000
Secretary of tourism	25,000
Commissioner for social insurance	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000

Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 89. KRS 62.170 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees or deputies of the Commonwealth of Kentucky, including all judges, clerks and employees of the Court of Justice, including all other members of boards or commissions or employees of ***those***[~~such~~] boards or commissions, and including all superintendents, receivers or employees of penal or eleemosynary institutions managed or directed by the Justice Cabinet, ***the*** Cabinet for ***Health Services, the Cabinet for Families and Children,***[~~Human Resources~~] or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Department of Personnel and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. ***The***[~~Such~~] bonds may be written with or without cosureties. Further, ***the***[~~such~~] bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one (1) company.

(4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Department of Personnel and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 90. KRS 64.625 is amended to read as follows:

Physicians employed by county, city-county, and district health departments may, upon written recommendation of the hiring and paying authorities expressly approved in writing by the secretary for ***health services***[~~human resources~~], receive compensation in excess of, and without regard to, any limitation imposed by any existing statute, as employees of local health units. Such rates shall be based upon studies of the duties and responsibilities of the positions and upon a comparison for rates being paid for similar or comparable services elsewhere. The secretary for ***health services***[~~human resources~~] may also take into consideration other appropriate factors, including the scarcity of physicians qualified for public health work and the availability of local funds therefor.

Section 91. KRS 65.710 is amended to read as follows:

In order to enable cities and counties to fulfill their obligations regarding the public health, safety, and welfare***,*** the General Assembly does hereby allow cities and counties to contract with private persons, partnerships, or corporations for providing ambulance service to the residents of such cities and counties subject to the following conditions:

(1) ***These***[~~All such~~] contracts must be in writing and must be approved by the city council or board of aldermen if a city is party thereto, or by the fiscal court in case a county is party thereto.

(2) No contract shall be made with an ambulance service or other organization or person unless ***the***[~~such~~] contract shall stipulate that at least one (1) person on each ambulance run shall possess currently valid emergency medical technician certification.

(3) All contracts made with any ambulance service or other organization or person shall stipulate that all vehicles used for operation of the service comply with vehicle and equipment ***administrative*** regulations issued by the Cabinet for ***Health Services***[~~Human Resources~~].

(4) All contracts shall include the stipulation that at least two (2) trained persons, one (1) driver and one (1) attendant, shall be carried on each ambulance for each ambulance call which is covered by ***the***[~~such~~] contract.

(5) No contract shall be made for a period of time greater than one (1) year.

(6) The vehicle, equipment, training, and personnel requirements of subsections (2), (3), and (4) of this section shall also apply to the operation of an ambulance service by a city or a county or by a city and a county jointly.

(7) No provisions of this section shall be construed as to limit the power of any city or county to contract for or operate ambulance services under requirements which are stricter than those of this section, or to require insurance, or bonding of contractors, provided ***these***[~~such~~] provisions are not in conflict with the requirements of this section.

Section 92. KRS 67.082 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 150.370, 525.130, or any other statute that may be in conflict herewith, any county fiscal court may, whenever an epidemic or potential epidemic of a disease transmissible to man and domestic animals exists or is threatened in any species of wildlife, declare all or any portion of ***that***[~~said~~] county to be an epidemic area. Following ***a***[~~such~~] declaration***,*** the fiscal court may, with approval of the Cabinet for ***Health Services***[~~Human Resources~~] and ***the*** Department of Fish and Wildlife Resources conduct control programs, including population reduction programs, against any species of wildlife including, but not limited to, red and gray foxes, skunks and rodents which may be serving as reservoirs and/or vectors of any disease transmissible to human beings and/or domestic animals including but not limited to rabies, leptospirosis, salmonellosis and Rocky Mountain spotted fever. ***These***[~~Such~~] control programs may include but shall not be limited to hunting, trapping, vaccination and use of poisons. Technical and operational assistance for ***the***[~~such~~] programs shall be made available by the Cabinet for ***Health Services***[~~Human Resources~~], the Department of Fish and Wildlife Resources, and the Department of Agriculture. A control program established under authority of this section may be conducted by the individual or joint action of the referred-to state agencies, the local health department or individual property owners designated as agents of said cabinets and departments. In the event poisonous baits are used to control an outbreak of rabies in wildlife, ***those***[~~such~~] programs shall be under the direction of the Cabinet for ***Health Services***[~~Human Resources~~]. All pet animals in the area shall be quarantined for the duration of the program by action of the local board of health. ***These***[~~Such~~] programs shall be regulated to provide specific identification of bait station locations, daily check of each bait station, and positive pickup and destruction of all unconsumed baits at the end of the program.

(2) No liability shall be imposed upon any state agency or local agency or any employee or agent thereof for any injury occurring to domesticated animals, individuals or property in carrying out programs in good faith authorized by this section, but all persons and agencies shall be liable to the extent otherwise provided by law for ordinary and gross negligence.

Section 93. KRS 72.029 is amended to read as follows:

Every coroner or other official performing a coroner's functions shall, on or before the tenth day of each month, report to the Department for ***Public*** Health[~~ Services~~] the death of any child under the age of eighteen (18) years occurring within the county during the preceding month, and the circumstances of the death. The report shall be made on the form required pursuant to administrative regulations promulgated pursuant to KRS Chapter 13A by the department. The form shall be developed in consultation with the Kentucky Coroners' Association.

Section 94. KRS 72.225 is amended to read as follows:

An advisory commission is hereby established to act in a general advisory capacity to the medical examiner services. The commissioner of State Police, the commissioner of training, the secretary of justice, and the secretary for ***health services***[~~human resources~~] shall be ex officio members of the advisory commission. The secretary of justice shall appoint five (5) additional members for terms of four (4) years each or until their successors are appointed and qualify. Members of the advisory commission shall receive no compensation for their services but shall be repaid their actual expenses incurred in attending meetings.

Section 95. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for ***Health Services***[~~Human Resources~~] on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 96. KRS 72.465 is amended to read as follows:

(1) The coroner shall in his sound discretion determine the extent of inquiry to be made into any death occurring under natural circumstances and falling within the provisions of KRS 72.410 to 72.470, and if inquiry reveals that the physician of record has sufficient knowledge to reasonably state the cause of a death occurring under natural circumstances, the coroner may authorize ***that***[~~such~~] physician to sign the certificate of death. In all other instances, the coroner shall sign

the death certificate in coroner's cases.

(2) In the event an autopsy is performed under the provisions of KRS 72.410 to 72.470 subsequent to the time that a death certificate has been filed with the Cabinet for ***Health Services***[~~Human Resources~~], Office of Vital Statistics, the coroner shall notify the Office of Vital Statistics of any change that may be necessary in the original certificate.

Section 97. KRS 96.931 is amended to read as follows:

As used in KRS 96.930 to 96.943, unless the context otherwise requires:

(1) "City" means an incorporated municipality of any class;

(2) "Governing body" means the body vested by law with the legislative power of a city;

(3) "Sewer body" means the body vested with responsibility for the control, operation, and maintenance of a city's sewer facilities, which may be the governing body or a board, commission, or agency, created by statute or by city ordinance, or a private person, performing such functions under lawful contract with the city;

(4) "Water supplier" means any person supplying water intended to be used, or actually used, in any manner resulting in contamination and includes the city itself, other cities and public bodies, and private operators of water-supplying facilities;

(5) "Public health standards" means such standards as are lawfully prescribed from time to time by the secretary for ***health services***[~~human resources~~], the United States Public Health Service, or any lawfully constituted county, city, or other public board, department, or agency, vested with responsibility in this area.

Section 98. KRS 116.113 is amended to read as follows:

(1) Upon receipt of notification from the Cabinet for ***Health Services***[~~Human Resources~~] of the death of a person, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(2) Upon receipt of notification from the circuit clerk that a person has been declared incompetent, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(3) Upon receipt of notification from the Administrative Office of the Courts that a person has been convicted of a felony offense, the State Board of Elections shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(4) Following the purge of a name from the records of the State Board of Elections, the state board shall notify the clerk of the county in which the voter lived of the action; and the county clerk shall within ten (10) days update the county voter registration files to reflect the necessary change. If a protest is filed by the voter, the county board shall hear it at its next regular monthly meeting. If the county board decides in favor of the protesting voter, the voter's registration record shall be restored, including his voting record. If the protest is filed while the registration books are closed and the county board decides in favor of the protesting voter, the county board shall issue the voter an "Authorization to Vote" for the upcoming election and the voter's record shall be restored when the registration books open following the election.

Section 99. KRS 141.065 is amended to read as follows:

(1) For the purposes of this section, "code" or "Internal Revenue Code" means the Internal Revenue Code in effect as of December 31, 1981.

(2) There shall be allowed as a credit for any taxpayer against the tax imposed by this chapter for any taxable year, an amount equal to one hundred dollars ($100) for each person hired by the taxpayer, ***if that***[~~provided such~~] person has been classified as unemployed by the Department for Social Insurance of the Cabinet for ***Families and Children***[~~Human Resources~~], and has been so classified for at least sixty (60) days prior to his employment by the taxpayer, and ***if*** further[~~ provided~~] that[~~ such~~] person has remained in the employ of the taxpayer for at least one hundred eighty (180) consecutive days during the taxable year in which the taxpayer claims the credit.

(3) No credit shall be allowed to any taxpayer for any person hired under any of the following circumstances:

(a) A person for whom the taxpayer receives federally funded payments for on-the-job training;[~~ or~~]

(b) For any person who bears any of the relationships to the taxpayer described in paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent (50%) in value of the outstanding stock of the corporation as determined with the application of Section 267(c) of the code;[~~ or~~]

(c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of Section 152(a) of the code to a grantor, beneficiary, or fiduciary of the estate or trust; or

(d) To any person who is a dependent of the taxpayer as described in code Section 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(4) For purposes of this section, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year by such a controlled group of corporations. For purposes of this subsection, the term "controlled group of corporations" has the meaning given to ***that***[~~such~~] term by code Section 1563(a), except that "more than fifty percent (50%)" shall be substituted for "at least eighty percent (80%)" each place it appears in code Section 1563(a)(1), and the determination shall be made without regard to subsections (a)(4) and (e)(3)(c) of code Section 1563.

(5) For purposes of this section, all employees of trades or businesses (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and in no instance shall the credit, if any, allowable by subsection (2) of this section for any employee qualified thereunder be claimed more than once for any taxable year.

(6) No credit shall be allowed under subsection (2) of this section to any organization which is exempt from income tax by this chapter.

(7) In the case of an electing small business corporation, the amount of the credit determined under this section for any taxable year shall be apportioned pro rata among the persons who are shareholders of ***the***[~~such~~] corporation on the last day of the taxable year, and any person to whom[~~ such~~] an amount is so apportioned shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for ***that***[~~such~~] amount.

(8) In the case of an estate or trust, the amount of the credit determined under this section for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of income of the estate or trust allocable to each, and any beneficiary to whom any amount has been apportioned under this subsection shall be allowed, subject to code Section 53, a credit under subsection (2) of this section for ***that***[~~such~~] amount.

(9) In no event shall the credit allowed, pursuant to this section, for any taxable year exceed the tax liability of the taxpayer for the taxable year.

Section 100. KRS 142.301 is amended to read as follows:

As used in KRS 142.301 to 142.359:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Charitable provider" means any provider which does not charge its patients for health care items or services, and which does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government. The collaboration with public hospitals, agencies, or other providers in the delivery of patient care; affiliation with public institutions to provide health care education; or the pursuit of research in cooperation with public institutions or agencies shall not be considered as the receipt of government support by a charitable provider;

(3) "Dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration or use by a patient or other individual entitled to receive the prescription drug;

(4) "Entity" means any firm, partnership, joint venture, association, corporation, company, joint stock association, trust, business trust, syndicate, cooperative, or other group or combination acting as a unit;

(5) "Gross revenues" means the total amount received in money or otherwise by a provider for the provision of health care items or services in Kentucky, less the following:

(a) Amounts received by any provider as an employee or independent contractor from another provider for the provision of health care items or services if:

1. The employing or contracting provider receives revenue attributable to health care items or services provided by the employee or independent contractor receiving payment; and

2. The employing or contracting provider is subject to the tax imposed by KRS 142.303, 142.307, 142.309, and 142.311 on the receipt of that revenue;

(b) Amounts received as a grant or donation by any provider from federal, state, or local government or from an organization recognized as exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code for:

1. Research; or

2. Administrative or operating costs associated with the implementation and operation of an experimental program;

(c) Salaries or wages received by an individual provider as an employee of a charitable provider, the federal government, or any state or local governmental entity;

(d) Salaries or wages received by an individual provider as an employee of a public university for the provision of services at a student health facility; and

(e) Amounts received by an HMO on a fixed, prepayment basis as premium payments.

(6) "Health care items or services" means:

(a) Inpatient hospital services;

(b) Outpatient hospital services;

(c) Nursing facility services;

(d) Services of intermediate care facilities for the mentally retarded;

(e) Physicians' services provided prior to July 1, 1999;

(f) Licensed home health care agency services;

(g) Outpatient prescription drugs; and

(h) HMO services;

(7) "Health maintenance organization" or "HMO" means an organization established and operated pursuant to the provisions of Subtitle 38 of KRS Chapter 304;

(8) "Hospital" means an acute care, rehabilitation, or psychiatric hospital licensed under KRS Chapter 216B;

(9) "Hospital services" means all inpatient and outpatient services provided by a hospital. "Hospital services" does not include services provided by a noncontracted, university-operated hospital, or any freestanding psychiatric hospital, if necessary waivers are obtained by the Cabinet for Human Resources from the Health Care Financing Administration, or hospitals operated by the federal government;

(10) "***Health Services***~~[Human resources]~~ secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or that person's authorized representative;

(11) "Inpatient hospital services," "outpatient hospital services," "intermediate care facility services for the mentally retarded," "physician services," "licensed home health care agency services," and "outpatient prescription drugs" have the same meaning as set forth in regulations promulgated by the Secretary of the Department of Health and Human Services and codified at 42 C.F.R. part 440, as in effect on December 31, 1993;

(12) "Medicaid" means the state program of medical assistance as administered by the Cabinet for ***Health Services***~~[Human Resources]~~ in compliance with 42 U.S.C. sec. 1396;

(13) "Nursing facility services" means services provided by a licensed skilled care facility, nursing facility, nursing home or intermediate care facility, excluding intermediate care facilities for the mentally retarded;

(14) "Person" means any individual, firm, partnership, joint venture, association, corporation, company, joint stock association, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit and the legal successor thereof;

(15) "Provider" means any person receiving gross revenues for the provision of health care items or services in Kentucky, excluding any facility operated by the federal government; and

(16) "Secretary" means the secretary of the Revenue Cabinet or that person's authorized representative.

Section 101. KRS 142.307 is amended to read as follows:

A tax is hereby imposed at a rate of two percent (2%) on gross revenues received by each provider on or after July 15, 1994, for the provision of nursing facility services, intermediate care facility services for the mentally retarded, licensed home health care services and HMO services. The tax imposed by this section shall apply to freestanding psychiatric hospitals if necessary waivers are obtained by the Cabinet for ***Health Services***~~[Human Resources]~~ from the Health Care Financing Administration. The tax imposed by this section shall not apply to gross revenues received for dispensing outpatient prescription drugs subject to tax under KRS 142.311.

Section 102. KRS 142.347 is amended to read as follows:

(1) Except when the ***health services***~~[human resources]~~ secretary has been granted specific authority in KRS 142.301 to 142.359, the cabinet shall administer the provisions of KRS 142.301 to 142.359, and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311, conferred generally by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall be responsible for compliance with all federal reporting requirements regarding the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311.

(3) The Cabinet for ***Health Services***~~[Human Resources]~~ shall fully cooperate with the cabinet and shall provide the cabinet with any information requested to carry out the provisions of KRS 142.301 to 142.359.

Section 103. KRS 142.351 is amended to read as follows:

(1) A report of revenue receipts from the taxes imposed by KRS 142.303, 142.307, 142.309, and 142.311 shall be provided on a quarterly basis by the cabinet to the ***health services***~~[human resources]~~ secretary on or before the tenth day of the

second month following the close of each fiscal quarter.

(2) It is the responsibility of each provider, subject to tax under KRS 142.303, 142.307, 142.309, and 142.311 to register with the cabinet, and comply with the tax and reporting provisions of KRS 142.301 to 142.359.

Section 104. KRS 151.035 is amended to read as follows:

(1) The Kentucky Geological Survey shall be designated as the Commonwealth's official repository for all information relating to the occurrence and quality of ground water as defined in KRS 151.100.

(2) The Cabinet for Natural Resources and Environmental Protection, the Cabinet for ***Health Services***[~~Human Resources~~], and any other cabinet, department, commission, board, or governmental agency, except as provided in subsection (4) of this section, that, by statute, administrative regulation, or as part of its routine activities, collects or generates information about ground water, shall transmit or cause to be transmitted that information to the Kentucky Geological Survey within ninety (90) days of receipt or generation, or a time determined between the Geological Survey and the other party.

(3) The information to be transmitted may include:

(a) Drillers logs and completion reports of wells drilled or dug for the purpose of producing, testing, or monitoring ground water;

(b) Geophysical logs of water wells;

(c) Water quality analyses of both organic and inorganic constituents;

(d) Results of all pump, extraction, and injection tests;

(e) Flow determinations of surface discharges of ground water; and

(f) Any additional data as the Kentucky Geological Survey shall require.

(4) All institutions of higher learning shall be encouraged, but not required, to submit to the Kentucky Geological Survey copies of all research data, including theses and dissertations relating to the occurrence or quality of ground water.

Section 105. KRS 151B.0235 is amended to read as follows:

(1) The State Advisory Council for Adult Education and Literacy is[~~ hereby~~] created and attached to the Department for Adult Education and Literacy. The members of the council shall be appointed by the Governor and shall be representative of the education community, business, industry, private citizens, public officials, and others with an interest in adult education and literacy programs. The council shall consist of twenty-one (21) members, each of whom shall serve for a term of three (3) years or until a successor is appointed and qualified, except that upon initial appointment, one-third (1/3) shall serve a one (1) year term, one-third (1/3) shall serve a two (2) year term, and one-third (1/3) shall serve a three (3) year term. The secretary of the Cabinet for Workforce Development, the secretary of the Cabinet for Education, Arts and Humanities, and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] shall serve as ex officio members. Eleven (11) members of the council shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the council and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term.

(2) The duties of State Advisory Council for Adult Education and Literacy are to advise the secretary of the Cabinet for Workforce Development and the Governor on:

(a) The development and implementation of measurable literacy and adult education goals;

(b) The coordination and monitoring of literacy training programs to ensure progress toward the long-term goals of the state;

(c) Improvement of the quality of literacy programs by supporting the integration of services, staff training, technology-based learning, and the integration of literacy program resources conducted by various agencies of state government; and

(d) Private sector initiatives that would improve adult education and literacy programs.

Section 106. KRS 151B.220 is amended to read as follows:

(1) There is[~~ hereby~~] created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.

(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for ***Families and Children***[~~human resources~~], the secretary for economic development, the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the

Cabinet for ***Families and Children***~~[Human Resources]~~ to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.

(b) The council shall:

1. Perform the functions assigned to it in the Job Training Partnership Act, 29 U.S.C. sec. 1501 et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Pub. L. 100-418, 102 Stat. 1524, 1536;

2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and

3. Execute other employment and training responsibilities not enumerated in Pub. L. 97-300, as amended, as determined by the Governor or the secretary for workforce development.

(c) The council shall consist of twenty-one (21) members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult Education and Literacy, and the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ or his designee shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. sec. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. sec. 1532(a)(1) and 29 U.S.C. sec. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.

(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.

Section 107. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky; and

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor, or his designated representative;

(b) The secretary of the Cabinet for Economic Development, or his designated representative;

(c) The adjutant general of the Commonwealth, or his designated representative;

(d) The secretaries of the following cabinets, or their designees:

1. Finance and Administration;
2. ***Families and Children***[~~Human Resources~~];
3. Justice;
4. Natural Resources and Environmental Protection;
5. Transportation; and
6. Workforce Development;

(e) The Attorney General, or his designee;

(f) Kentucky's Civilian Aide to the Secretary of the United States Army;

(g) The commander or his designee of each of the following. as nonvoting, ex-officio members:

1. Fort Campbell;
2. Fort Knox;
3. United States Army Recruiting Command;
4. Bluegrass Army Depot;
5. Louisville District of the United States Army Corps of Engineers;
6. Any other installation or organization with a major military mission in the Commonwealth;
7. The One Hundredth Training Division; and

(h) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the five (5) at-large members, by September 30, 1996. The chair shall call a meeting of the commission by October 31, 1996, for the purpose of creating an executive committee.

(a) The commission shall establish an executive committee consisting of the Secretary of the Cabinet for Economic Development, the Adjutant General of the Commonwealth, and the five (5) at-large members.

(b) The chair and vice chair of the commission shall serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds and operate the normal business activities of the commission with approval of the executive committee.

(9) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 108. KRS 154.20-020 is amended to read as follows:

(1) The secretary shall be authorized to commit the cabinet to any project or proposal, subject to approval of the committee as necessary except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the board.

(2) No project shall be funded in whole or part by the authority unless first approved by its committee pursuant to administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(3) Lending decisions made by the authority shall be based, if possible, feasible, and not otherwise precluded by federal or state law, on utilizing state funds to leverage private sector investment.

(4) The authority shall cooperate with the Cabinet for ***Health Services***[~~Human Resources~~] in facilitation of KRS 194.245(1).

Section 109. KRS 154.45-060 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 154.45-020 to 154.45-110, there is[~~ hereby~~] created the Enterprise Zone Authority of Kentucky consisting of eleven (11) members. The authority shall be appointed as follows: one (1) member appointed by the Governor from a list of three (3) persons nominated by the Labor Management Advisory Council; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky League of Cities; one (1) member appointed by the Governor from a list of three (3) persons nominated by the Kentucky Association of Counties; one (1) member appointed by the Governor who is qualified to represent the interests of Kentucky's small business community; one (1) member appointed by the Governor from a list of three (3) persons nominated by the AFL-CIO of Kentucky; two (2) members appointed by the Governor to serve at large; one (1) member appointed by the Governor from a list of five (5) persons nominated by the secretary of the Cabinet for Economic Development; the secretary of the Cabinet for Economic Development or his designee; the secretary of the Revenue Cabinet or his designee; and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designee.

(2) Authority members shall serve a term of four (4) years and, except for the secretary of the Cabinet for Economic Development, the secretary of the Revenue Cabinet, and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], shall not be eligible to succeed themselves.

(3) The authority shall meet at least four (4) times per year. A majority of the total authority membership shall be required to designate an area as an enterprise zone and to certify businesses as qualified businesses. The authority shall keep official minutes of all meetings. All members shall serve until such time as their successors are qualified and appointed. Each member of the authority shall receive one hundred dollars ($100), not to exceed twelve hundred dollars ($1,200) per calendar year, as compensation for attending official meetings of the authority. Each member of the authority shall be reimbursed for travel expenses actually incurred in the discharge of his duties on the authority.

(4) The Cabinet for Economic Development shall serve as staff for the authority and carry out the administrative duties and functions as directed by the authority.

Section 110. KRS 154.45-120 is amended to read as follows:

The Cabinet for ***Families and Children***[~~Human Resources~~] shall verify employment information relating to the hiring requirements of qualified businesses to select and maintain employees from the targeted workforce. The Cabinet for ***Families and Children***[~~Human Resources~~] shall fully cooperate with the authority in the development of a system to monitor employment information supplied by qualified businesses.

Section 111. KRS 157.317 is amended to read as follows:

(1) The Kentucky Board of Education through administrative regulations shall develop and implement a statewide Early Childhood Education Program which shall include basic principles of child development, early childhood education, and all other related concepts which deal with generally-accepted early childhood programs, including the delivery of health and social services to children as needed.

(2) (a) The Kentucky Early Childhood Advisory Council is created to advise the chief state school officer on the implementation of early childhood education programs. The Department of Education shall provide staff and administrative support for the council.

(b) The Kentucky Early Childhood Advisory Council shall consist of one (1) member of the Kentucky Board of Education appointed by the chairman and sixteen (16) members appointed by the Governor. The sixteen (16) appointed members shall include one (1) representative from each of the following agencies or groups: preschool teachers, public school teachers, elementary school principals, parents, child care providers, community education, the Interagency Task Force on Family Resource Centers and Youth Services Centers, the Head Start Association, the Head Start director, the Head Start Program, the Infant/Toddler Coordinating Council, the Department for ***Public*** Health[~~ Services~~], the Department for Social Services, the Department for Social Insurance, the colleges of education, and the colleges of home economics.

(c) Members shall serve a four (4) year term, except initial appointments shall be set so that four (4) members shall serve one (1) year, four (4) members shall serve two (2) years, four (4) members shall serve three (3) years, and four (4) members shall serve four (4) years.

Section 112. KRS 158.035 is amended to read as follows:

Except as provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a medical or osteopathic physician licensed in any state. The certificate shall state that the child has been immunized against diphtheria, tetanus, poliomyelitis, rubeola, and rubella in accordance with the provisions of this section and KRS 214.010, 214.020, 214.032 to 214.036, and 214.990 and the regulations of the secretary for ***health services***[~~human resources~~]. The governing body of private and public schools shall enforce the provisions of this section.

Section 113. KRS 158.037 is amended to read as follows:

Each public or private elementary or secondary school shall report tuberculin skin test and immunization results to its local health department in accordance with regulations promulgated by the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 114. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means:

1. Those children of school age committed to or in custody of the Cabinet for ***Families and Children***~~[Human Resources]~~ and placed, or financed by the cabinet, in a Cabinet for ***Families and Children***~~[Human Resources]~~ operated or contracted institution, treatment center, or facility, or placed or financed by the Cabinet for ***Families and Children***~~[Human Resources]~~ in a private facility pursuant to child care agreements other than those for foster care;

2. Those children of school age in home and community-based services provided as an alternative to intermediate care facility services for the mentally retarded; and

3. Those children committed to or in custody of the Department of Juvenile Justice, except for children placed in a juvenile detention facility or jail as defined in KRS 15A.067.

(b) "Current costs and expenses" means all expenditures, other than for capital outlay and debt service, which are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, related services if identified on an individual educational plan, and more intensive educational programming.

(2) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district that provides elementary or secondary school services to state agency children shall be reimbursed through a contract with the Kentucky Educational Collaborative for State Agency Children. The school services furnished to state agency children shall be equal to those furnished to other school children of the district.

(3) The Kentucky Educational Collaborative for State Agency Children shall make to the chief state school officer the reports required concerning school services for state agency children, and shall file with the Cabinet for ***Families and Children***~~[Human Resources]~~ unit operating or regulating the institution or day treatment center, or contracting for services, in which the children are located a copy of the annual report made to the chief state school officer.

(4) The Cabinet for ***Families and Children***~~[Human Resources]~~ shall contract with a university-affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in KRS 605.110.

(5) Notwithstanding the provisions of any other statute, the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program.

Section 115. KRS 158.160 is amended to read as follows:

(1) A parent, legal guardian, or other person or agency responsible for a student shall notify the student's school if the student has any medical condition which is defined by the Cabinet for ***Health Services***~~[Human Resources]~~ in administrative regulation as threatening the safety of the student or others in the school. The notification shall be given as soon as the medical condition becomes known and upon each subsequent enrollment by the student in a school. The principal, guidance counselor, or other school official who has knowledge of the medical condition shall notify the student's teachers in writing of the nature of the medical condition.

(2) If any student is known or suspected to have or be infected with a communicable disease or condition for which a reasonable probability for transmission exists in a school setting, the superintendent of the district may order the student excluded from school. The time period the student is excluded from school shall be in accordance with generally accepted medical standards which the superintendent shall obtain from consultation with the student's physician or the local health officer for the county in which the school district is located. During the presence in any district of dangerous epidemics, the board of education of the school district may order the school closed.

Section 116. KRS 160.305 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ may enter into a contract with the local board of education of any school district in the Commonwealth for the use of school buses to transport persons eligible for transportation services at times when the buses are not needed to transport students to or from school or school events. Persons eligible for ***these***~~[such]~~ transportation services shall be:

(a) Sixty-two (62) years of age or older;

(b) Those with physical or mental disabilities; or

(c) Any other person designated by the Cabinet for ***Families and Children***[~~Human Resources~~] as appropriate for ***these***[~~such~~] transportation services.

(2) Before ***this***[~~such a~~] contract is entered into, the Cabinet for ***Families and Children***[~~Human Resources~~] shall formulate a plan for the use of school buses for ***these***[~~such~~] purposes and shall submit it to the local board of education for its approval or disapproval. The plan for the use of school buses for ***these***[~~such~~] transportation purposes shall include routes, schedules, cost, and any other matters deemed necessary by both parties.

(3) The cost of transporting persons eligible under the provisions of subsection (1) of this section shall be borne by the Cabinet for ***Families and Children***[~~Human Resources~~].

Section 117. KRS 163.086 is amended to read as follows:

(1) There shall be a Governor's Council on Vocational Education, consisting of thirteen (13) members appointed by the Governor.

(2) Members shall be appointed for three (3) year terms. Any vacancy occurring on the council shall be filled by the Governor for the unexpired term. All appointments shall conform to the requirements of Section 112 of Public Law 98-524. Members shall be representative of citizens and groups within the state having an interest in vocational education as follows: five (5) members shall represent business, industry, and agriculture, including one (1) member who represents small business concerns and one (1) member who is a private sector member of the Kentucky Job Training Coordinating Council; two (2) members shall represent labor organizations; and six (6) members shall represent secondary and postsecondary vocational institutions, career guidance, special education, counseling organizations, and special populations to include women, the disadvantaged, individuals with disabilities, individuals with limited English proficiency, and minorities.

(3) Members shall select from among its membership a chairperson who shall be representative of the private sector. A quorum of the council shall consist of seven (7) members, and a quorum at any duly-called meeting may act on any matter before it for consideration. Each member shall have one (1) vote.

(4) Members shall be reimbursed only for actual expenses incurred in the discharge of official business, subject to ***administrative*** regulations ***promulgated***[~~established~~] by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds available to the Governor's Council on Vocational Education.

(5) The council shall be assigned duties, responsibilities and operation requirements as specified in Public Law 98-524 to include the following:

(a) Meet with the State Board for Adult and Technical Education or its representatives during the planning year to advise on the development of the state plan;

(b) Advise the State Board for Adult and Technical Education and make reports to the Governor, the business community and the general public of the state concerning the policies the state should pursue to strengthen vocational education, with particular attention to programs for individuals with disabilities; and initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(c) Analyze and report on the distribution of spending for vocational education in the state and on the availability for vocational education activities and services within the state;

(d) Furnish consultation to the State Board for Adult and Technical Education on the establishment of evaluation criteria for vocational education programs within the state;

(e) Submit recommendations to the State Board for Adult and Technical Education on the conduct of vocational education programs conducted in the state;

(f) Assess the distribution of financial assistance furnished under the Carl D. Perkins Vocational Education Act (Public Law 98-524), particularly with the analysis of the distribution of financial assistance between secondary and postsecondary vocational education programs;

(g) Recommend procedures to the State Board for Adult and Technical Education to ensure and enhance the participation of the public in the provision of vocational education at the local level within the state, particularly the participation of local employers and local labor organizations;

(h) Report to the State Board for Adult and Technical Education on the extent to which special populations are provided with equal access to quality vocational education programs;

(i) Evaluate at least once every two (2) years the vocational education program delivery systems and make recommendations to the State Board for Adult and Technical Education on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act; and

(j) Advise the Governor, the State Board for Adult and Technical Education, Kentucky Job Training Coordinating Council, the secretary of the Cabinet for ***Workforce Development***[~~Human Resources~~], and the secretary of labor of these findings and recommendations.

(6) The council shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures for the official conduct of business. The council shall hold not less than one (1) public meeting each year at which the public shall be given an opportunity to express views concerning the vocational education program of the state.

(7) The council may obtain the services of the professional, technical, and clerical personnel necessary to carry out its functions and to contract for the services necessary to enable the council to carry out its evaluation functions, independent of programmatic and administrative control by other state boards, agencies, and individuals.

(8) The council shall be authorized to accept and use all available funds including, but not limited to, federal grants. The funds shall not be diverted or reprogrammed for any other purpose by any state agency or individual. The council shall designate an agency within the Cabinet for Workforce Development to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

Section 118. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and Hard of Hearing shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) hard of hearing or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be for a one (1) year term;

4. One (1) person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term; ***and***

5. One (1) deaf or hard of hearing person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for ***Health Services***[~~Human Resources~~] appointed by the secretary;

(c) ***One representative of the Cabinet for Families and Children appointed by the secretary;***

(d) The secretary of the Education, Arts, and Humanities Cabinet or his designee;

(e)[~~(d)~~]The president of the Kentucky Association for the Deaf or his designee;

(f)[~~(e)~~] The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(g)[~~(f)~~] Three (3) persons appointed by the Commission on the Deaf and Hard of Hearing as constituted in subsections (1)(a) through (1)***(f)***[~~(e)~~] of this section, appointed as follows:

1. One (1) parent of a hard of hearing or deaf child;

2. One (1) representative of a private organization providing consistent services to the deaf and hard of hearing; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsections (1)(a)2. through (1)(a)5. and subsection (1)***(g)***[~~(f)~~] of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 119. KRS 164.935 is amended to read as follows:

(1) As used in this section:

(a) "Physician" means a medical doctor practicing full-time family medicine, general obstetrics and gynecology, general pediatrics, or general internal medicine; and

(b) "Underserved geographic area" means a county in which the ratio between physicians practicing full time in that county and the county's population results in each physician serving two thousand five hundred (2,500) or more residents, based on population data acceptable to either the University of Kentucky or the University of Louisville.

(2) The University of Kentucky and University of Louisville shall establish and maintain physician recruitment and placement services, the principal function of which shall be to recruit or place family or general practice physicians in underserved geographic areas. The Cabinet for ***Health Services***[~~Human Resources~~] shall pay each university fifty

thousand dollars ($50,000) annually for basic administrative costs in addition to the fees enumerated in subsection (4) of this section.

(3) Physician recruitment and placement services may be contracted by licensed health care facilities or services to assist in recruiting physicians in underserved geographic areas. Fees shall be charged by the University of Kentucky or the University of Louisville to the contracting party in an amount not to exceed ten thousand dollars ($10,000) per physician.

(4) If no licensed health care facility or service has contracted for recruitment services, when the University of Kentucky or the University of Louisville places a physician in an underserved geographic area or a psychiatrist in a state mental health facility, the following fees shall be paid to the university by the Cabinet for ***Health Services***[~~Human Resources~~], the total of which shall not exceed fifty thousand dollars ($50,000) per university in addition to the fifty thousand dollars ($50,000) per university enumerated in subsection (3) of this section:

(a) Ten thousand dollars ($10,000) for a family practice physician entering permanent, full-time practice;

(b) Ten thousand dollars ($10,000) for a psychiatrist entering full-time permanent employment in a state mental health facility;

(c) Eight thousand dollars ($8,000) for a general obstetrician-gynecologist entering permanent, full-time practice;

(d) Two thousand dollars ($2,000) for a general pediatrician or general internal medicine practitioner entering permanent, full-time practice; and

(e) One thousand dollars ($1,000) for any other licensed medical practitioner entering permanent, full-time practice.

(5) Fees paid to the universities under the provisions of subsection (3) of this section shall be made only after sufficient proof has been presented documenting the university's principal role in influencing the physician's practice location. Correspondence from physicians placed, as well as all other parties directly involved, shall state that the university substantially influenced the physician's choice of practice location and describe in detail the services provided by the university.

Section 120. KRS 174.410 is amended to read as follows:

(1) The secretary shall be responsible for controlling and regulating the movement of all radioactive materials and the intrastate transport of other hazardous materials transported by all carrier modes within the Commonwealth.

(2) The secretary, in consultation with the secretary of the Natural Resources and Environmental Protection Cabinet and the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], shall adopt by reference or in entirety, the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively carry out the intent of KRS 174.400 to 174.425.

(3) The cabinet and the Justice Cabinet shall cooperate with and assist the Natural Resources and Environmental Protection Cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:

(a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Natural Resources and Environmental Protection Cabinet; and comply with applicable shipping standards;

(b) Upon receipt of a written request from the secretary or general counsel of the Natural Resources and Environmental Protection Cabinet, actively conduct field investigations relating to the illegal, improper, or unauthorized transport of hazardous waste in the state. Such investigations may, at a minimum, include passive and active surveillance, apprehension, and reporting, with the scope and extent of each investigation to be previously agreed to by the involved cabinets;

(c) Compile and maintain such necessary records ***that***[~~as~~] may normally be required to carry out the provisions of this subsection and shall for minor violations report quarterly, and for major violations report weekly, to the Natural Resources and Environmental Protection Cabinet on the status of the interagency hazardous waste transportation monitoring and enforcement activity for irregularities or violations;

(d) Provide ***any***[~~such~~] information, evidence, and other support, either in written form or in the form of oral testimony during a legal proceeding or both, as may be required by the Natural Resources and Environmental Protection Cabinet to fully carry out its statutory responsibility under the appropriate sections of KRS Chapter 224;

(e) The Natural Resources and Environmental Protection Cabinet shall, unless specifically agreed otherwise, have primary responsibility for initiating and conducting all legal proceedings arising from the terms and provisions of this subsection; and

(f) The Natural Resources and Environmental Protection Cabinet shall provide sufficient training, technical assistance, and other support to the appropriate cabinets to prepare representatives of the cabinets to adequately carry out the responsibilities set forth in this subsection.

Section 121. KRS 175.525 is amended to read as follows:

(1) The authority or the cabinet shall establish by administrative regulation promulgated pursuant to KRS Chapter 13A a toll road identification card to be provided to paying and nonpaying users of toll facilities. The toll road identification cards shall be issued through an application process. A fee that shall not exceed five dollars ($5) may be established for the issuance of each card.

(2) Upon application, nonpaying accounts shall be established for:

(a) State police, local police, and fire department vehicles while the vehicles are being operated in an official capacity on a turnpike project;

(b) Emergency vehicles operated by an ambulance service while the vehicles are being operated in an official capacity, in both emergency and nonemergency situations on a turnpike project; and

(c) Funeral processions on turnpike projects.

(3) To receive the exemption contained in subsection (2) of this section, an ambulance service shall be licensed by the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 122. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists. The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for ***Families and Children***~~[Human Resources]~~ that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, or payments on the child support arrearage are being made in accordance with a court or administrative order. Before the license may be reinstated, proof of elimination of the child support arrearage from the Cabinet for ***Families and Children***~~[Human Resources]~~ shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for ***Families and Children***~~[Human Resources]~~ and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon

determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 123. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the State Police, a public police department, Department of Corrections, or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; any vehicle used to respond to emergencies or to transport a patient with a critical medical condition if the vehicle is operated by a Cabinet for ***Health Services***[~~Human Resources~~] licensed ambulance provider or medical first response provider; any vehicle commandeered by a police officer; or any motor vehicle used by a paid or volunteer fireman or paid or volunteer ambulance personnel while responding to an emergency or to a location where an emergency vehicle is on emergency call.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 124. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection (4)(a) of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection (4)(b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection (4)(c) or (d) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, treatment means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for ***Health Services***[~~Human Resources~~] for services as required under this section.

(6) The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for ***Health Services***[~~Human Resources~~] shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 125. KRS 195.105 is amended to read as follows:

(1) The ***secretaries***[~~secretary~~] for ***health services and for families and children***[~~human resources~~] in coordination with the[~~Department of~~] Personnel ***Cabinet are***[~~is~~] authorized to establish formal training programs within the Cabinet for ***Health Services and the Cabinet for Families and Children***[~~Human Resources~~] or within any of the departments, divisions, or sections of the ***cabinets***[~~cabinet~~] for the training of necessary personnel for the administration of the programs of the ***cabinets***[~~cabinet~~]. When courses of study, applicable to the program processes of the ***cabinets***[~~cabinet~~], are not available through instruction within the ***cabinets***[~~cabinet~~], arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose, and ***this***[~~such~~] training shall be deemed to be a part of the ***cabinets'***[~~cabinet's~~] training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, ***these***[~~such~~] assignments to relate directly to the work assignment of the employee. After consulting with the ***Personnel Cabinet***[~~Department of Personnel~~], position classifications in the research series shall be established for employees on[~~such~~] work study assignments, and funds of the ***cabinets***[~~cabinet~~] may be used to pay salaries commensurate with the appropriate classification while the employee is receiving such training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training,

the state will hold a claim against ***that person***[~~him~~] for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 126. KRS 195.020 is amended to read as follows:

(1) The ***Cabinet for Health Services and the Cabinet for Families and Children***[~~cabinet~~] shall exercise all functions of the state in relation to:

(a) Administration and supervision of all forms of public assistance including general home relief, outdoor and indoor care for persons in need, old age assistance, aid to dependent children, and aid to individuals who are blind and other individuals with disabilities.

(b) Administration and supervision of services to needy, neglected, and dependent children.

(2) All administrative functions of the nature outlined above, heretofore performed by other agencies of the state, are hereby transferred to and shall hereafter be performed by the Cabinet for ***Health Services or the Cabinet for Families and Children***[~~Human Resources~~].

Section 127. KRS 195.180 is amended to read as follows:

The duties of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be to:

(1) Promote and aid in the establishment of local programs supporting the employment of individuals with disabilities;

(2) Conduct continuing programs of public information and promotion to educate the public as to problems of employment of individuals with disabilities;

(3) Review existing state programs for employment of individuals with disabilities and make recommendations to the Governor, to the appropriate departments and agencies of the state, and to the General Assembly for improvements in and additions to such programs;

(4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of employment of individuals with disabilities;

(5) Cooperate with the federal government and with the governments of other states and cities in programs relating to individuals with disabilities;

(6) Cooperate with all groups interested in job adjustment and employment of individuals with disabilities, including government agencies, organizations, private groups, and individuals.

Section 128. KRS 196.081 is amended to read as follows:

(1) To facilitate the need for comprehensive planning for the Department of Corrections and for related matters the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of twelve (12) members as follows:

(a) The Attorney General;

(b) The secretary of the Justice Cabinet;

(c) The commissioner of the Department of Corrections;

(d) The chairman of the Parole Board;

(e) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~];

(f) A county jailer chosen by the Governor;

(g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;

(h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;

(i) A representative from a law enforcement agency, appointed by the Governor;

(j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and

(k) The state Public Advocate.

(2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.

(3) The Governor shall appoint a chairman of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.

(4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairman. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a

special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.

(6) The commission shall:

(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;

(b) Develop a six (6) year plan for Department of Corrections operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;

(c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;

(d) Assist the Department of Corrections in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;

(e) Review and make recommendations to the General Assembly concerning legislative proposals, including Department of Corrections budget proposals, to insure consistency with the six (6) year plan;

(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;

(g) Receive regular reports from the Department of Corrections, on a schedule established by the commission, as to the department's progress in complying with the six (6) year plan;

(h) Review and make recommendations to the department on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;

(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;

(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections including, but not limited to, legislation relating to sentencing, probation, and parole;

(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department ***for***[~~of~~] Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~], and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation; and

(l) Administer the provisions of KRS 196.700 to 196.735.

(7) The six (6) year plan shall consist of at least the following elements:

(a) The location, capacity, classification, and staffing of each penal institution and program administered by the Department of Corrections;

(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;

(c) The administrative structure of the Department of Corrections;

(d) Prison population projections for the six (6) year plan period;

(e) Education, rehabilitation, and prison industries programs administered by the Department of Corrections;

(f) The inmate labor program administered by the department; and

(g) Contingency plans to deal with unexpected increases in prison population.

(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.

Section 129. KRS 196.171 is amended to read as follows:

(1) The Department of Corrections shall develop an educational course on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for ***Health Services***[~~Human Resources~~] of not more than four (4) hours for the instruction of corrections personnel who have day to day contact with incarcerated persons and personnel who may be expected to respond to crisis situations. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. The training may be part of any continuing education program.

(2) All persons referred to in subsection (1) of this section shall successfully complete the training required. Any person holding the position referred to in subsection (1) of this section shall not fill that position for more than one (1) year without successful completion of the required training. If the persons do not successfully complete the required training within the time specified, he shall be suspended from further service until he successfully completes the required training.

Section 130. KRS 197.055 is amended to read as follows:

(1) The Department of Corrections, in conjunction with the Cabinet for ***Health Services***[~~Human Resources~~], shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the department, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the department shall begin a testing program which is consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority and shall target persons who have been involved in or reasonably thought to have been involved in a high risk behavior. For purposes of this subsection, "high-risk behavior" includes:

(a) Sexual contact with any person within the institution;

(b) The use of intravenous drugs;

(c) Tattooing; and

(d) Any other activity medically known to transmit the virus.

(3) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(4) The department shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(5) The department shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(6) If an inmate is involved in a situation with a department employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

(7) All testing procedures, disclosure, and payment shall be pursuant to KRS 438.250.

Section 131. KRS 198A.035 is amended to read as follows:

(1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:

(a) The following ten (10) state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Department of Local Government; commissioner of the Department of Housing, Buildings and Construction; secretary of the Cabinet for Economic Development; secretary of the Cabinet for ***Families and Children***[~~Human Resources~~]; secretary of the Natural Resources and Environmental Protection Cabinet; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.

(b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:

1. Public housing authorities;
2. Mortgage banking industry;
3. Manufactured housing industry;
4. Realtors;

5. Homebuilders;
6. Urban nonprofit housing organizations;
7. Rural nonprofit housing organizations;
8. Urban advocates for the homeless;
9. Rural advocates for the homeless;
10. Residents of economically-diverse urban neighborhoods;
11. Residents of economically-diverse rural neighborhoods;
12. Rental property providers;
13. Advocates for persons with physical disabilities;
14. Advocates for persons with mental disabilities;
15. The Kentucky State Building Trades Council;
16. The Kentucky League of Cities; and
17. The Kentucky Association of Counties.

(c) One (1) member of the Senate and one (1) member of the House of Representatives.

(2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed pursuant to subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.

(3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.

(4) Any vacancy shall be filled pursuant to the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.

(5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.

(6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.

(7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.

(8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.

(9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.

(10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 132. KRS 198B.020 is amended to read as follows:

(1) There is~~[hereby]~~ created the Kentucky Board of Housing, Buildings and Construction within the Kentucky Department of Housing, Buildings and Construction comprised of twenty (20) members to include: the commissioner of the department, one (1) local government fire chief selected by the Governor from a list of three (3) submitted by the Kentucky Firemen's Association; the executive director of the Kentucky Housing Corporation; the commissioner of the Department for ***Public*** Health~~[Services]~~, Cabinet for ***Health Services***~~[Human Resources]~~; the Attorney General or any assistant attorney general he may designate to represent the interests of consumers; one (1) professional homebuilder selected by the Governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one (1) registered architect selected by the Governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the Governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the Governor to represent the interests of low and moderate income housing consumers within the Commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the

Governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the Governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the Governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky State Building Trades Council; one (1) member selected by the Governor from a list of three (3) submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors; one (1) member selected by the Governor from a list of three (3) submitted by the Mechanical Contractors Association; one (1) electrical contractor member selected by the Governor from a list of three (3) submitted by the National Electrical Contractors Association; and one (1) retailer member selected by the Governor from a list of three (3) submitted by the Kentucky Retail Federation.

(2) Except for the commissioner of the department, the commissioner of the Department for ***Public*** Health[~~ Services~~], the executive director of the Kentucky Housing Corporation and the Attorney General or his designee who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms. No board member shall be appointed for more than one (1) successive term except as provided in subsection (3) of this section. The Governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.

(3) Vacancies occurring on the board among those members appointed by the Governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his position on the board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.

(4) Members may be removed from the board by the Governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.

(5) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(6) The commissioner of the department shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the Department for ***Public*** Health[~~ Services~~], the executive director of the Kentucky Housing Corporation nor the Attorney General or his designee shall be elected to office on the board.

(7) The board may adopt such rules, regulations and bylaws as are necessary to conduct its internal business.

(8) No member of the board may vote on any matter which will result in his direct or indirect financial gain.

(9) Those members of the board who are not salaried governmental employees shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars ($50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

Section 133. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for ***families and children***[~~human resources~~];

(2) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~];

(3) "Department" means the Department for Social Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(6) "Child-caring facility" means any institution or group home other than a state facility, or one (1) certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency licensed by the cabinet other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(8) "Adoption worker" means an employee of the cabinet ***so*** designated[~~ as such~~] by the secretary for ***families and children***[~~human resources~~], a social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, adoption placement services to children, or a social worker employed by or under contract to a child-placing adoption agency;

(9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(10) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an

institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children;

(12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons;[~~ and~~]

(13) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their biological parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, biological parents, and adoptive parents by providing social services to all the parties involved in an adoption***; and***[~~.~~]

(14) "Voluntary and informed consent" means that at the time of the execution of the consent the consenting person was fully informed of the legal effect of the consent, that the consenting person was not given or promised anything of value except those expenses allowable under KRS 199.590(6), that the consenting person was not coerced in any way to execute the consent, and that the consent was voluntarily and knowingly given. If at the time of the execution of the consent the consenting person was represented by independent legal counsel, there shall be a presumption that the consent was voluntary and informed. In the event the person was not represented by independent legal counsel, the consent shall be in writing, signed and sworn to by the consenting person and include the following:

(a) Date, time, and place of the execution of the consent;

(b) Name of the child, if any, to be adopted and the date and place of the child's birth;

(c) Consenting person's relationship to the child;

(d) Identity of the proposed adoptive parents or a statement that the consenting person does not desire to know the identification of the proposed adoptive parents;

(e) A statement that the consenting person understands that the consent will be final and irrevocable twenty (20) days after the execution of the consent if the placement was previously approved, if approval of the placement is required;

(f) Disposition of the child if the adoption is not adjudged;

(g) A statement that the consenting person has received a completed and signed copy of the consent at the time of the execution of the consent;

(h) A statement that the consenting person understands that the consent may only be withdrawn by written notification sent by certified or registered mail addressed to either the attorney for the consenting person or to the attorney for the adoptive parents, within thirty (30) days following the execution of the consent;

(i) Name and address of the person who prepared the consent, name and address of the person who reviewed and explained the consent to the consenting person, and a verified statement from the consenting person that the consent has been reviewed with and fully explained to the consenting person; and

(j) Total amount of the consenting person's legal fees, if any, for any purpose related to the execution of the consent and the source of payment of the legal fees.

Section 134. KRS 199.420 is amended to read as follows:

(1) The secretary shall have the power and authority to adopt, amend***,*** or rescind ***those administrative***[~~such rules and~~] regulations ***that the secretary***[~~as he~~] deems necessary or suitable for the proper administration of the functions of the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. ***These administrative***[~~Such rules and~~] regulations shall become effective in the manner and at the time prescribed by the secretary.

(2) In the administration of KRS 199.410 to 199.670 the secretary shall cooperate to the fullest extent possible with any agency of this state or any other state of the United States.

(3) The secretary is authorized, subject to the provisions of KRS Chapters 12, 18A, 42, 45***,*** and 64, to appoint, fix the compensation and prescribe the duties and powers of ***any***[~~such~~] officers and employees as ***are***[~~may be~~] necessary in the performance of ***the secretary's***[~~his~~] duties under KRS 199.410 to 199.670. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis, in accordance with merit standards established by law. The secretary shall not employ or pay any person who is an officer or committee member of any political party organization. The secretary may delegate to any[~~ such~~] person so appointed ***that***[~~such~~] power and authority as ***the secretary***[~~he~~] deems reasonable and proper for the effective administration of KRS 199.410 to 199.670.

(4) The secretary shall have the power and authority to elect coverage for the workers in the cabinet, under the provisions of KRS Chapter 341, and may elect coverage for ***these***[~~such~~] workers under the workers' compensation law of this state. In

the event ***the***~~[such]~~ coverage is elected the payment of contributions under KRS Chapter 341 and premiums under the workers' compensation law shall be deemed a proper cost of administration.

(5) The salaries and expenses of the secretary and ***the secretary's***~~[his]~~ staff shall be considered a proper cost of administration and charged to the funds allocated to the Cabinet for ***Families and Children***~~[Human Resources]~~.

Section 135. KRS 199.440 is amended to read as follows:

The secretary may authorize the destruction of ***any***~~[such]~~ original reports and records ***that***~~[as]~~ have been properly recorded or summarized in the permanent records of the cabinet or are no longer considered necessary to the proper administration of the cabinet. ***The***~~[Such]~~ destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of ***the***~~[such]~~ records shall be deposited and credited to the use of the Cabinet for ***Families and Children***~~[Human Resources]~~.

Section 136. KRS 199.461 is amended to read as follows:

(1) As used in this section, "family service worker" means a social worker employed by the Cabinet for ***Families and Children***~~[Human Resources]~~, Department for Social Services, to provide direct casework services in foster care, child protection, juvenile services, or adult protection.

(2) As used in this section, "active case" includes the total number of cases for which the family service worker has responsibility.

(3) The monthly statewide caseload average for family service workers in the area of foster care, child protection, juvenile services, or adult protection shall not exceed twenty-five (25) active cases.

(4) Nothing in this section shall prevent the department or a family service worker from handling emergencies to carry out statutory mandates. If the monthly statewide caseload average for family service workers exceeds twenty-five (25) active cases for ninety (90) consecutive days, the department shall report the fact to the Governor and to the Legislative Research Commission together with a description of the factors contributing thereto and shall make recommendations related thereto. The report shall include, by county and district, family service worker caseload averages; the number of established family service worker positions; and the number of vacant family service worker positions.

Section 137. KRS 199.462 is amended to read as follows:

(1) Before any applicant to provide foster care home services to a minor may be approved, the Cabinet for ***Families and Children***~~[Human Resources]~~ shall request from the Justice Cabinet records of all conviction information for the applicant. The Justice Cabinet shall furnish the information to the Cabinet for ***Families and Children***~~[Human Resources]~~ and shall also send a copy of the information to the applicant.

(2) The request for records shall be on a form approved by the Justice Cabinet and the Justice Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.

Section 138. KRS 199.467 is amended to read as follows:

Pursuant to the requirements of the Adoption Assistance and Child Welfare Act of 1980, Public Law 96-272, the secretary for ***families and children***~~[human resources]~~ shall adopt by regulation specific goals for each fiscal year for the cabinet as to the maximum number of children, (either in absolute numbers or as a percentage of all children in foster care with respect to whom assistance is provided in that year) who, at any time during such fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with a description of the steps to be taken by the state to achieve such goals.

Section 139. KRS 199.473 is amended to read as follows:

(1) All persons other than a child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Prior to the approval of an application to place or receive a child, together with the fee required pursuant to subsection (6) of this section, the secretary shall cause the investigation to be made by a Cabinet for ***Families and Children***~~[Human Resources]~~ social worker unless the applicant specifies in the application that the investigation shall be done by an adoption worker of the home and the background of the person or persons wishing to receive the child. The portion of the investigation pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The adoption worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case, reasons for the adoption worker's recommendation shall be given in writing. The recommendation of the adoption worker shall then be reviewed by the secretary. Based on the report and recommendation of the adoption worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching ***a***~~[this]~~ decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric

standpoint. If the application is refused, the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. If the application is denied, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or[~~ such~~] other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.

(3) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with ***that person or those persons***[~~him or them~~] for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent. The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in[~~ such~~] a manner ***that constitutes***[~~as to constitute~~] an abuse of discretion.

(4) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for ***families and children***[~~human resources~~], or if permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants ***who are*** to receive ***the child***[~~him~~] unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.

(5) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.

(6) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] shall be paid a nonrefundable fee of one hundred fifty dollars ($150) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special needs child as authorized in KRS 199.555.

(7) Nothing in this statute shall be construed to limit the authority of the cabinet or a child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 140. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

(a) The name, date, place of birth, place of residence, and mailing address of each petitioner, and, if married, the date and place of their marriage;

(b) The name, date, place of birth, place of residence, and mailing address, if known, of the child sought to be adopted;

(c) Relationship, if any, of the child to each petitioner;

(d) Full name by which the child shall be known after adoption;

(e) A full description of the property, if any, of the child so far as it is known to the petitioner;

(f) The names of the parents of the child and the address of each living parent, if known. The name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child. If certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;

(g) The name and address of the child's guardian, if any, or of the cabinet, institution, or agency having legal custody of the child;

(h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and

(i) If any fact required by this subsection to be alleged is unknown to the petitioners, the lack of knowledge shall be alleged.

(2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.

(3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written approval of the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or the secretary's designee shall be filed with the petition.

Section 141. KRS 199.500 is amended to read as follows:

(1) An adoption shall not be granted without the voluntary and informed consent of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that the consent of the living parent or parents shall not be required if:

(a) The parent or parents have been adjudged mentally disabled and the judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of the parents have been terminated under KRS Chapter 625;

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child; or

(d) The biological parent has not established parental rights as required by KRS 625.065.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for the parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court. The court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to ***the***[~~such~~] child.

(5) An adoption shall not be granted or a consent for adoption be held valid if the consent for adoption is given prior to seventy-two (72) hours after the birth of the child. A voluntary and informed consent may be taken at seventy-two (72) hours after the birth of the child and shall become final and irrevocable twenty (20) days after either the interstate or the intrastate placement approval by the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], or twenty (20) days after the execution of the consent if placement approval was given prior to the signing of the consent, if approval is required.

Section 142. KRS 199.555 is amended to read as follows:

(1) A "special needs child" means:

(a) A child which the state has determined cannot or should not be returned to the home of ***the child's***[~~his~~] parents; and

(b) A child which the state has first determined:

1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and

2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of ***these***[~~such~~] parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX.

(2) "State-funded adoption assistance" means payment of monthly maintenance to assist in meeting the special needs of a child which was placed by the Cabinet for ***Families and Children***[~~Human Resources~~]. The state-funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.

(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the special needs adoption and which are not incurred in violation of state or federal law.

(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed

prior to the adoption and are not reimbursed by private insurance, Medicaid, or other third-party payors or government programs.

(5) If the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of adoption, funds may be paid to the adoptive parents after completion of the adoption of the child if the following conditions exist:

(a) The child was considered a special needs child prior to the adoption;

(b) The child is committed to the Cabinet for ***Families and Children***~~[Human Resources]~~ and the cabinet has authority to consent to the child's adoption; and

(c) The adoptive parents can give suitable care to the child if a subsidy is paid.

(6) Agreements for the payments of funds under this section shall be made prior to the adoption of the child. However, if the secretary for ***families and children***~~[human resources]~~ or his designated representative finds that the adoption is likely to disrupt, extraordinary medical expenses may be reimbursed contingent upon availability of resources, if the following conditions exist:

(a) The child was placed for adoption by the Cabinet for ***Families and Children***~~[Human Resources]~~;

(b) The child was considered a special needs child prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

(7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473(5) which shall be deposited in a restricted account for the purpose of subsidizing special needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for ***families and children***~~[human resources]~~ in accord with 42 U.S.C. ***sec.*** 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.

(8) State-funded adoption assistance payments shall not be made to parents if:

(a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);

(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or

(c) The cabinet determines that the child is no longer receiving any support from the parents.

(9) Parents who have been receiving adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.

(10) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Section 143. KRS 199.557 is amended to read as follows:

(1) For the purpose of this section, unless the context requires otherwise, "Federal Title IV-E adoption assistance" means the payment of monthly maintenance to assist in meeting the special needs of the child and of nonrecurring adoption expenses which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to legal adoption of a special needs child and which are not incurred in violation of state or federal law.

(2) If the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ or his designated representative finds that payment of a subsidy to adoptive parents after the adoption will increase the likelihood of ***the***~~[such]~~ adoption, funds may be paid to the adoptive parents after conclusion of the adoption if the child meets the eligibility criteria established at 42 U.S.C. ***sec.*** 673.

(3) Agreements for Federal Title IV-E adoption assistance under this section shall be made prior to the adoption of the child.

(4) Payment shall be out of funds appropriated to the cabinet and Federal Title IV-E funds of the Social Security Act as amended (42 U.S.C. ***sec.*** 673 et seq.). All payments shall be in accordance with administrative regulations promulgated by the Cabinet for ***Families and Children***~~[Human Resources]~~. Payments shall not exceed the amount which would be paid for foster care for the child. Nonrecurring adoption expenses shall only be reimbursed up to the limit established by

the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or his designated representative in accordance with 42 U.S.C. ***sec.*** 673 et seq.

Section 144. KRS 199.570 is amended to read as follows:

(1) The files and records of the court during adoption proceedings shall not be open to inspection by persons other than parties to ***the***[~~such~~] proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court, except that upon the written consent of the biological parents and upon written order of the Circuit Court all papers and records including all files and records of the Circuit Court during proceedings for termination of parental rights provided in KRS 625.108 shall be open for inspection to any adult adopted person who applies in person or in writing to the Circuit Court as provided in KRS 199.572. No person having charge of any adoption records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of adoption. Health information received pursuant to KRS 199.525 shall be added to the adoption case file. The clerk of the Circuit Court shall set up a separate docket and order book for adoption cases and these files and records shall be kept locked.

(2) After entry of the adoption judgment, the clerk of the Circuit Court shall promptly report to the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky full information as called for on forms furnished by the Cabinet for ***Health Services***[~~Human Resources~~], necessary to make a new birth certificate conforming to the standard birth certificate form. Upon receipt of this information, the Cabinet for ***Health Services***[~~Human Resources~~] shall cause to be made a new record of the birth and it shall be filed with the original certificate, and the original certificate shall be stamped with the words, "CONFIDENTIAL – subject to copy and/or inspection only on written order of the court."

(3) The new certificate shall set forth the new name, if any, of the adopted child, the names of the adoptive parents and such other information deemed necessary in accordance with rules and regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] in issuing of birth certificates. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the biological parent or parents of the child. If requested by the adoptive parents, the new birth certificate when issued shall contain the location of birth, hospital, and name of doctor or midwife. This information should be given only by an order of the court in which the child was adopted. The new birth certificate shall recite the residence of the adoptive parents as the birthplace of the child and this shall be deemed for all legal purposes to be the birthplace of the child. If no birth certificate is on file for a child born in Kentucky, the Cabinet for ***Health Services***[~~Human Resources~~] shall prepare a certificate of birth in accordance with the information furnished the cabinet by the clerk of the Circuit Court which issued the adoption order. The Cabinet for ***Health Services***[~~Human Resources~~] shall furnish to the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section. If the child was born in another state, the order of adoption shall be forwarded to the division of vital statistics of the state concerned to be changed in accordance with the laws of such state. If the child was born in a foreign country, the report of adoption shall be returned to the attorney or agency handling the adoption for submission to the appropriate federal agency.

(4) Thereafter when any copy of the certificate of birth of any child is issued it shall be a copy of the new certificate of birth, except when an order of the court granting the judgment of adoption shall request the issuance of the copy of the original certificate of ***the***[~~ such~~] child's birth.

(5) If any judgment of adoption is reversed, modified, or vacated in any particular, the clerk of the Circuit Court shall notify the Cabinet for ***Health Services***[~~Human Resources~~] of the reversal or modification and the effect of same, and the cabinet shall make any necessary changes in its records.

Section 145. KRS 199.572 is amended to read as follows:

(1) At the time the biological parents give up the child for adoption, they shall be asked by the cabinet whether they consent to the inspection of the adoption records, to personal contact by the child, or to both when he becomes an adult. If consent is then given, it can later be revoked. If consent is withheld at that time, the biological parents may give consent at any later time. The initial written statement of consent or refusal of consent to inspection of records and personal contact shall be filed with the Circuit Court not later than the date of finalization of the adoption proceedings. When a written consent is on file, the records shall be available to the adult adopted person, upon his request therefor in writing.

(2) When any adult adopted person applies in person or in writing to the Circuit Court for authorization to inspect all papers and records pertaining to the adoption proceedings of ***that adult***[~~such~~] adopted person as provided in KRS 199.570(1), and the biological parents have previously refused consent to inspection of records and to personal contact, the court may, if satisfied as to the identity of ***the***[~~such~~] adult adopted person, authorize the adult adopted person to inspect the papers and records if written consent is obtained from the biological parents identified on the adult adopted person's original birth certificate.

(3) The Circuit Court shall, within seven (7) working days of the receipt of the request, direct the secretary of the cabinet to notify each biological parent identified on the adult adopted person's original birth certificate that ***the***[~~said~~] person has

applied to the court for information identifying ***the***~~[such]~~ biological parent. Within six (6) months of receiving the notice of the request of the adult adopted person, the secretary of the cabinet shall make complete and reasonable efforts to notify each biological parent identified on the adult adopted person's original birth certificate. The secretary may charge a reasonable fee not to exceed two hundred fifty dollars ($250) to the adult adopted person for making ***this***~~[such a]~~ search. Every child-caring facility and child-placing agency in the Commonwealth shall cooperate with the secretary in his efforts to notify ***these***~~[such]~~ biological parents.

(4) The notification of the biological parents shall not be by mail and shall be by personal and confidential contact. The notification shall be done without disclosing the identity of the adult adopted person. The personal and confidential contact with the biological parents shall be evidenced by filing with the Circuit Court an affidavit of notification executed by the person who notified each parent and certifying each parent was given the following information:

(a) The nature of the information requested by the adult adopted person;

(b) The date of the request of the adult adopted person;

(c) The right of the biological parent to file, within sixty (60) days of receipt of the notice, an affidavit with the Circuit Court stating that the adult adopted person shall be authorized to inspect all papers and records pertaining to his adoption proceedings;

(d) The right of the biological parent to file at any time an affidavit authorizing the adult adopted person to inspect all papers and records pertaining to his adoption proceedings; and

(e) The right of a biological parent to file an affidavit with the Circuit Court stating that all papers and records pertaining to the adoption proceedings of the adult adopted person shall not be open for inspection by the adult adopted person.

(5) The adult adopted person shall not be authorized to inspect the papers and records pertaining to his ***or her*** adoption proceedings unless those biological parents identified on the original birth certificate agree in writing to ***that***~~[such]~~ inspection.

(6) If after diligent and reasonable effort, the secretary of the cabinet certifies that both biological parents identified in the original birth certificate are deceased or the secretary is unable to locate said parents, then a judge of the Circuit Court, upon motion of the adult adopted person, may order that all papers and records of the Cabinet for ***Families and Children***~~[Human Resources]~~ and those of the Circuit Court pertaining to the adoption shall be open for inspection to ***the***~~[such]~~ adult adopted person. In any case, the court shall order that only identifying information about the biological parents be shared with the adult adopted person.

Section 146. KRS 199.575 is amended to read as follows:

In situations where a pre-adoptive brother or sister relationship existed, and one (1) or more of these siblings was then adopted, the following procedures shall be followed on an inquiry by one (1) or more of the siblings to the Cabinet for ***Families and Children***~~[Human Resources]~~ seeking information about his brother or sister:

(1) In all cases, an adopted person eighteen (18) years of age or older or a pre-adoptive sibling eighteen (18) years of age or older of an adopted person may file information concerning himself, his present location, and his known antecedents with the Cabinet for ***Families and Children***~~[Human Resources]~~, stating his interest in being reunited with his pre-adoptive siblings and authorizing the cabinet to release such information to his pre-adoptive siblings who may make similar inquiry.

(2) In any case in which a person eighteen (18) years of age or older requests information about or expresses a desire in being reunited with a pre-adoptive sibling, the cabinet shall first determine whether such sibling has made similar inquiry pursuant to subsection (1) of this section. If ***the***~~[such]~~ sibling has previously authorized release of information about himself, the cabinet shall release ***the***~~[such]~~ information to the sibling making inquiry.

Section 147. KRS 199.590 is amended to read as follows:

(1) A person, corporation, or association shall not advertise in any manner that it will receive children for the purpose of adoption. A newspaper published in the Commonwealth of Kentucky or any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky shall not contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) A person, agency, institution, or intermediary shall not sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. This section shall not prohibit a child-placing agency from charging a fee for adoption services. This section shall not be construed to prohibit in vitro fertilization. For purposes of this section, "in vitro fertilization" means the process by which an egg is removed from a woman, and fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted.

(3) No person, association, or organization, other than the cabinet or a child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent,

grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. This subsection shall not be construed to limit the Cabinet for ***Families and Children***~~[Human Resources]~~ in carrying out its ***public assistance under Title IV-A of the federal Social Security Act***~~[Aid to Dependent Children]~~ Program in accordance with KRS Chapter 205. This section shall not be construed to prohibit private independent adoption or the right to seek legal services relating to a private independent adoption.

(4) A person, agency, institution, or intermediary shall not be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artificial insemination. A person, agency, institution, or intermediary shall not receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.

(5) A person, organization, group, agency, or any legal entity, except a child-placing agency, shall not accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted. This section shall not interfere with the legitimate practice of law by an attorney.

(6) (a) In every adoption proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parents for any purpose related to the adoption shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the adoptive parents shall not have any claim against the adoptive parents for the amount not approved.

Section 148. KRS 199.595 is amended to read as follows:

(1) The General Assembly finds that:

(a) Finding adoptive families for children, for whom state assistance is desirable pursuant to KRS 199.555, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

(b) Provision of medical and other necessary services for children, with state assistance, encounters special difficulties when the provision of services takes place in other states.

(2) The purposes of KRS 199.5951 to 199.5955 are to:

(a) Authorize the Cabinet for ***Families and Children***~~[Human Resources]~~ to enter into interstate agreements with agencies of other states for protection of children on behalf of whom adoption assistance is being provided by the Cabinet for ***Families and Children***~~[Human Resources]~~; and

(b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

Section 149. KRS 199.5951 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ is authorized to develop, participate in the development of, negotiate and enter into one (1) or more interstate compacts on behalf of this state with other states to implement one (1) or more of the purposes set forth in KRS 199.595 to 199.5955. When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

(2) For the purposes of KRS 199.595 to 199.5955, the term "state" shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

(3) For the purposes of KRS 199.595 to 199.5955, the term "adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(4) For the purposes of KRS 199.595 to 199.5955, the term "residence state" means the state of which the child is a resident by virtue of the residence of the adoptive parents.

Section 150. KRS 199.5954 is amended to read as follows:

(1) A child with special needs residing in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive medical assistance from this state upon the filing in the Department for Social Insurance, Cabinet for ***Families and Children***~~[Human Resources]~~, a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the Department for Medicaid Services, Cabinet for ***Health Services***~~[Human Resources]~~, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The Department for Medicaid Services, Cabinet for ***Health Services***~~[Human Resources]~~ shall consider recipients of medical assistance pursuant to this section as any other recipient of medical assistance under the laws of this state and shall process and make payment on claims on account of the recipient in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The Department for Medicaid Services, Cabinet for ***Health Services***[~~Human Resources~~] shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the Department for Social Services, Cabinet for ***Families and Children***[~~Human Resources~~] for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The Cabinet for ***Families and Children***[~~Human Resources~~] shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, the regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

Section 151. KRS 199.5955 is amended to read as follows:

Consistent with federal law, the Cabinet for ***Families and Children***[~~Human Resources~~], in connection with the administration of KRS 199.595 to 199.5955 and any compact pursuant hereto shall include in any state plan made pursuant to the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272), Titles IV (e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost. The Cabinet for ***Families and Children***[~~Human Resources~~] shall apply for and administer all relevant federal aid in accordance with law.

Section 152. KRS 199.641 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "Allowable costs" means all allowable costs as defined by the Federal Office of Management and Budget circular A-122, "cost principles for nonprofit organizations," utilizing cost data from the child-caring facility's most recent yearly audited financial statement***;***[~~.~~]

(b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility***; and***[~~.~~]

(c) "Department" means the Department for Social Services of the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) When the Department for Social Services chooses to place a child in a nonprofit child-caring facility, the department shall reimburse that facility the allowable cost of the child's care, subject to the limitation set forth in subsection (3) of this section.

(3) When the Department for Social Services chooses to place a child in a nonprofit child-caring facility, the rate of reimbursement for ***the***[~~such~~] child's care shall not exceed seventy-five percent (75%) of the average cost in the most comparable residential facility operated by the department. The rate shall be based on actual total facility occupancy for the most recent audited year or ninety percent (90%) of the facility capacity for the audited year, whichever is greater.

(4) The secretary shall, to the extent funds are appropriated, implement the reimbursement methodology set forth in this section, or may promulgate administrative regulations in accordance with KRS Chapter 13A to establish the rate of reimbursement for child-caring facilities which are consistent with the level of service provided. If funds are insufficient in any given fiscal year to fully fund this provision, rates shall be adjusted by determining the reimbursement schedule and adjusting by the ratio of available funds to estimated full cost.

Section 153. KRS 199.645 is amended to read as follows:

The Cabinet for ***Families and Children***[~~Human Resources~~] shall issue and enforce administrative regulations specifically addressing the unique situation of child-caring facilities and child-placing agencies which provide nonsecure care for children during the preadjudication phase of proceedings under KRS Chapters 630 and 635. ***These***[~~Such~~] facilities and agencies shall include those operated privately and those operated by units of local government. These ***administrative*** regulations shall include standards relating to the following:

(1) Administration;
(2) Personnel;
(3) Training and staff development;
(4) Recordkeeping;
(5) Physical plant;
(6) Security and control;
(7) Safety and emergency procedures;
(8) Sanitation and hygiene;
(9) Medical[~~ and health~~] services;
(10) Food services;
(11) Intake and classification;
(12) Programs and services;
(13) Resident rights;
(14) Rules and discipline;
(15) Admission procedures;
(16) Communication, including mail, visitation and telephone;
(17) Release preparation and transfer programs; and
(18) Volunteer involvement.

Section 154. KRS 199.892 is amended to read as follows:

In enacting legislation relating to the regulation of day-care centers, it is the intention of the General Assembly to enable the Cabinet for ***Families and Children***[~~Human Resources~~] to qualify to receive federal funds under provisions of the Federal Social Security Act and to provide for effective regulation of day-care centers.

Section 155. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for ***Families and Children***[~~ Human Resources~~];

(2) "Secretary" means secretary for ***families and children***[~~human resources~~];

(3) "Day-care center" means any child-care facility which provides full or part-time care, day or night, to at least seven (7) children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted, or a youth development agency. For the purposes of this section, "youth development agency" means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an outside-school-hours center for youth who are six (6) years of age or older, and for which there are no fee or scheduled care arrangements with the parent or guardian of the youth served.

Section 156. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance

of the special fund shall lapse to the general fund at the end of each biennium.

(7) Any advertisement for child-care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day-care centers by the Cabinet for ***Families and Children and the Cabinet for Health Services***[~~ Human Resources~~] shall be unannounced.

(9) All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(10) All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(11) The Cabinet ***for Families and Children*** shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (9) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (9) of this section.

(12) Child day-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

Section 157. KRS 199.8982 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~];

(b) "Department" means the Department for Social Services; and

(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall meet the following minimum requirements:

1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;

3. Submit to a criminal record check as provided by KRS 17.165;

4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:

a. Basic health, safety, and sanitation;

b. Recognizing and reporting child abuse; and

c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) The cabinet shall promulgate administrative regulations which establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;
2. Information about available child-care training; and
3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 158. KRS 199.8984 is amended to read as follows:

(1) The Child-Care Policy Council is created within the Cabinet for ***Families and Children***[~~Human Resources~~]. The council shall:

(a) Promote coordination and communication among state agencies responsible for child-care and early childhood education services;

(b) Serve as an advisor for state agencies responsible for child-care programs;

(c) Review state child-care programs and make recommendations to state agencies and the General Assembly related to program implementation, access to child care, the supply of child care, and coordination of child-care and other early childhood programs;

(d) Review and make recommendations on administrative regulations relating to child-care programs and services;

(e) Advise the cabinet on application requirements and distribution of contracts to local child-care resource and referral agencies; and

(f) Submit biennially to the Legislative Research Commission by October 1 in each odd-numbered year a report on the status of child care.

(2) The council shall be composed of seventeen (17) citizen members appointed by the Governor and shall include one (1) member of the House of Representatives appointed by the Speaker of the House and one (1) member of the Senate appointed by the Senate President. Members of the council shall serve for a term of four (4) years and until their successors are appointed and qualified; they shall be chosen to broadly represent public interest groups concerned with child-care services, professionals involved in the delivery of child-care services, nonprofit child-care providers, for-profit child-care providers, family child-care providers, employers, labor, resource and referral programs, parents, and the general public. The Governor shall appoint the chairman of the council, who shall also serve as one of the voting members of the council. The secretary for ***families and children***[~~human resources~~], the commissioner for social insurance, and the commissioner for social services shall be nonvoting, ex officio members of the council. The commissioner for social services shall be staff director for, and shall provide staff to, the council. The council shall meet at least quarterly and on other occasions as may be necessary. A majority of the appointed members shall constitute a quorum.

Section 159. KRS 199.899 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] shall conduct a market-rate survey at least biennially to determine the rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;

(b) Determine market rates; and

(c) Make public its findings.

(2) By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child-care programs which attain accreditation from a national organization that the cabinet determines has accreditation

standards that contribute to high quality child care.

(3) In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that Area Development District.

Section 160. KRS 199.8992 is amended to read as follows:

(1) To the extent possible with available funds, the Cabinet for ***Families and Children***[~~Human Resources~~] shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

(a) Maintain a uniform database in a format developed by the cabinet of all child-day-care providers licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 in the service area, including information on the availability of care;

(b) Provide consumer education to families seeking child-day-care services;

(c) Provide timely referrals of available child-day-care providers to families seeking child-day-care services;

(d) Recruit child-day-care providers in areas where there is an identified need as identified pursuant to paragraph (f) of this subsection;

(e) Coordinate, with the cabinet, training for child-day-care providers and provide technical assistance to employers, current and potential child-day-care providers, and the community at large;

(f) Collect and analyze data on the supply of, and demand for, child-day-care in the community;

(g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community;

(h) Provide written educational materials to parents and child-day-care providers; and

(i) Not operate a child-day-care center on behalf of an employer or on their own unless no existing provider is willing or able to provide the service at the current market rate. This paragraph shall not apply to child care provided by a resource and referral agency to an employer prior to July 14, 1992.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

(a) Coordinate existing resource and referral services;

(b) Expand resource and referral services to unserved areas; and

(c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

Section 161. KRS 199.8994 is amended to read as follows:

(1) All child-day-care funds administered by the cabinet, including ***Title***[~~Titles~~] XX[~~ and IV-A~~] of the Social Security Act, shall be administered by the ***Cabinet for Families and Children***[~~cabinet's Department for Social Services~~] to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.

(3) The cabinet shall, subject to the extent funds are available, ***cooperate with the Cabinet for Health Services to fund*** establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.

Section 162. KRS 199.8996 is amended to read as follows:

The Cabinet for ***Families and Children***[~~Human Resources~~] shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

Section 163. KRS 199.900 is amended to read as follows:

(1) The secretary for ***families and children***[~~human resources~~] in coordination with the Department of Personnel is authorized to establish formal training programs within the Cabinet for ***Families and Children***[~~Human Resources~~] or within any of the divisions or sections of the cabinet for the training of necessary personnel for the administration of the programs of the cabinet. When courses of study, applicable to the program processes of the cabinet, are not available through cabinet instruction, arrangements may be made for the training of employees in any public or private school or institution having available facilities for that purpose and such training shall be deemed to be a part of the cabinet training program. Training of employees in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, ***and these***[~~such~~] assignments ***are*** to relate directly to the work assignment of the employee. After consulting with the Department of Personnel, position classifications in the research series shall be established for employees on such work study assignments, and funds of the cabinet may be used to pay salaries commensurate with the appropriate classification while the employee is receiving[~~ such~~] training.

(2) Any employee who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of[~~ such~~] training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the cabinet the sum paid to him by the cabinet during the period of his training.

Section 164. KRS 200.010 is amended to read as follows:

As used in KRS Chapter 200, unless the context requires otherwise, "cabinet" means Cabinet for ***Families and Children***[~~Human Resources~~].

Section 165. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

  (a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Social Services, the commissioner of the Department for ***Public*** Health[~~ Services~~], the commissioner of the Department of Medicaid Services, and the executive director of the Administrative Offices of the Courts, or their designees; and

  (b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

  (a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

  (b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child***;***[~~.~~]

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council; and

(i) Develop services to meet the needs of children with an emotional disability.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

Section 166. KRS 200.507 is amended to read as follows:

The secretary for ***families and children***[~~human resources~~], the designee of the State Department of Education, and the executive director of the Administrative Offices of the Courts shall ensure that the State Interagency Council for Services to Children with an Emotional Disability is formed by August 1, 1990. No member of the State Interagency Council shall receive compensation other than that received as a state employee.

Section 167. KRS 200.509 is amended to read as follows:

(1) There are hereby created regional interagency councils for services to children with an emotional disability. These councils shall be formed in each area development district within the Commonwealth of Kentucky, except that those area development districts that contain a county with a population greater than one hundred thousand (100,000) may form up to three (3) such councils. The regional interagency councils for services to children with an emotional disability shall be chaired by the district supervisor of the Department for Social Services or a program specialist with expertise in this service area as the district supervisor's designee. Each council shall be composed of the following members:

(a) The children's services coordinator from each regional community mental health center or their designee in the case of a multicouncil district;

(b) One (1) court designated worker chosen by the Chief Regional District Judge within the region;

(c) One (1) specialist in special education chosen by the school district superintendents in the area served by the regional council;

(d) One (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability, and one (1) parent who meets the same criteria to serve as the parent member's alternate, who may attend and participate in all council meetings, but shall vote only in the absence of the parent member. For each appointment to be made, the regional interagency council for which the appointment is to be made shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment; and

(e) Any other local public or private agency that provides services to children with an emotional disability which the regional interagency council may invite to have a representative become a permanent or temporary member of the council.

(2) No member of a regional interagency council for services to children with an emotional disability shall be given compensation in addition to that which they already receive as service providers or state employees, except that the parent members and alternate parent members of regional interagency councils shall be reimbursed for all expenses incurred through the performance of their duties as council members.

(3) Each regional interagency council for services to children with an emotional disability shall perform the following functions:

(a) Review case histories of children referred to it by its members or any other entity within its geographical area to coordinate service provision;

(b) Coordinate the development of interagency service plans for children with an emotional disability in the least restrictive alternative mode of treatment;

(c) Identify the time frames necessary and the parties responsible for the timely development of the interagency service plans for children with an emotional disability;

(d) Verify that services identified in interagency service plans are developed, accessed, and delivered in a coordinated and timely manner;

(e) Initiate and adopt interagency agreements as necessary for providing services to children with an emotional disability by the agencies represented in the regional council;

(f) Advise the state interagency council regarding service delivery to children with an emotional disability within the region;

(g) Refer those children for whom the regional councils cannot provide adequate services to the state interagency council;

(h) Implement the uniform grievance procedure established by the state interagency council;

(i) Make periodic reports to the state interagency council regarding the number of children referred to the regional council and the progress made in meeting the needs of each child; and

(j) Recognize local interagency councils for services to children with an emotional disability when it determines the council would be beneficial to service delivery.

(4) The secretary for ***families and children***[~~human resources~~] and the designee of the State Department of Education shall ensure that regional councils for services to children with an emotional disability are formed by October 1, 1990.

(5) Local interagency councils for services to children with an emotional disability may be formed as necessary to enhance service provision, better coordinate services, or initiate special projects and fundraising activities for children with an emotional disability within a city, county, or other local community.

Section 168. KRS 200.580 is amended to read as follows:

The secretary for ***families and children***[~~human resources~~] shall:

(1) Make those services to children and their families known as "family preservation services" accessible to forty percent (40%) of children at imminent risk of being placed outside their homes by 1995 and eventually to all cases where the removal of a child is imminent and provision of such services appropriate;

(2) Ensure that the state-wide availability of family preservation services be accomplished in an orderly fashion allowing the development and evaluation of different program models necessary to provide services across the geographic diversity of the state; and

(3) Accomplish the implementation of family preservation services by consultation with professionals in the child welfare field, using any technical assistance available from the National Conference of State Legislatures and the Center for the Study of Social Policy.

Section 169. KRS 200.585 is amended to read as follows:

(1) The Department for Social Services shall be the lead administrative agency for family preservation services and may receive funding for the implementation of ***these***[~~such~~] services. The Department for Social Services shall:

(a) Provide the coordination of and planning for the implementation of family preservation services;

(b) Provide standards for family preservation services programs;

(c) Monitor ***these***[~~such~~] services to ensure they meet measurable standards of performance as set forth in state law and as developed by the Department for Social Services; and

(d) Provide the initial training and approve any ongoing training required by providers of family preservation services.

(2) The Department for Social Services may provide family preservation services directly or may contract with a private, nonprofit social service agency to provide ***these***[~~such~~] services. In the event the department provides family preservation services with state caseworkers, those caseworkers and cases shall be excluded for the overall caseworker/case averages provided on a quarterly basis to the Legislative Research Commission and the Governor's office under KRS 199.461. Family preservation services caseworkers and cases shall be included in the report as a separate category.

(3) In the event a nonprofit social service agency is contracted by the Department for Social Services, to provide family preservation services, the contract shall include:

(a) Requirements for provider acceptance of any client referred by the Cabinet for ***Families and Children***[~~Human Resources~~] for family preservation services;

(b) Limitation of caseload to four (4) or fewer families per caseworker;

(c) Provision of twenty-four (24) hour crisis intervention services to families served by the program;

(d) Provision for training of family preservation services staff to meet the following minimum standards:

1. Intensive training of not less than forty (40) hours to any therapist before family preservation services clients are assigned. This training is to be provided by individuals with recognized expertise regarding family preservation services and is to concern itself with the required knowledge skills, and techniques for success within the family preservation services model;

2. A plan for the continuing education of staff therapists after the initial forty (40) hours;

3. Training of not less than twenty (20) hours for a paraprofessional family aide before provision of services without the direct supervision of a family preservation services caseworker;

(e) Provide for and conduct internal program evaluation and cooperate with external evaluation as directed by the Department for Social Services;

(4) To qualify for continued funding under subsection (3) of this section, an agency contracting to provide family preservation services shall demonstrate an annual success rate of seventy-five percent (75%) in avoiding out-of-home placement six (6) months after the cessation of family preservation services.

Section 170. KRS 200.595 is amended to read as follows:

(1) The provision of family preservation services to a family shall constitute a reasonable effort by the Cabinet for ***Families and Children***[~~Human Resources~~] to prevent the removal of a child from the child's home under KRS 620.140, provided that the family has received timely access to other services from the Cabinet for ***Families and Children***[~~Human Resources~~] for which the family is eligible.

(2) Acceptance of family preservation services shall not be considered an admission of any allegation that initiated the investigation of the family, nor shall refusal of family preservation services be considered as evidence in any proceeding except where the issue is whether the Cabinet for ***Families and Children***[~~Human Resources~~] has made reasonable efforts to prevent removal of a child.

(3) No family preservation services program shall compel any family member to engage in any activity or refrain from any activity which is not reasonably related to remedying a condition or conditions that gave rise or which could reasonably give rise to any finding of child abuse, neglect or dependency.

Section 171. KRS 200.600 is amended to read as follows:

(1) The secretary for ***families and children***[~~human resources~~] shall conduct a yearly evaluation of family preservation services which shall include the following:

(a) The number of families in which family preservation services would be an available alternative to placement of the child if available;

(b) The number of families receiving family preservation services, the number of children in those families, and the number of children in those families who would have been placed in out-of-home care if family preservation services had not been available;

(c) Among those families receiving family preservation services, the number of children placed outside the home;

(d) The average cost per family of providing family preservation services;

(e) The estimated cost of out-of-home placement which would have been expended on behalf of those children who received family preservation services based on average lengths of stay and average costs of out-of-home placements;

(f) The number of children who remain unified with their families six (6) months and one (1) year after completion of family preservation services; and

(g) An overall evaluation of the progress of family preservation services programs during the preceding year, recommendations for improvements in delivery of this service, and a plan for the continued development of family preservation services to ensure progress toward statewide availability.

Section 172. KRS 200.605 is amended to read as follows:

(1) The secretary for ***families and children***[~~human resources~~] may redirect funds from amounts budgeted to serve children in out-of-home placement for the purposes of providing family preservation services to children who would otherwise be removed from their homes.

(2) The secretary for ***families and children***[~~human resources~~] may use any funds that become available through an increase in reimbursement of funds from Title 4-E of the Social Security Act as amended by P.L. 96-272 for the purposes of providing family preservation services to children who would otherwise be removed from their homes.

Section 173. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning, resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(3) "Child find" means a system to identify, locate, and evaluate all infants and toddlers with disabilities who are eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state agencies and departments;

(4) "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(5) "District" means one (1) of the fifteen (15) area development districts;

(6) "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(7) "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the child multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by entities receiving public funds using qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include, but not be limited to, the following:

    (a) Screening services;
    (b) Evaluation services;
    (c) Assessment services;
    (d) Service coordination;
    (e) Transportation and related costs for accessing early intervention services;
    (f) Family services including counseling, psychological, and social work services;
    (g) Health services including medical services for diagnostic and evaluation purposes only;
    (h) Nutrition services;
    (i) Occupational therapy services;
    (j) Physical therapy services;
    (k) Communication development services;
    (l) Sensory development services;
    (m) Developmental intervention services;
    (n) Assistive technology services; and
    (o) Respite services;

(8) "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(9) "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(10) "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

    (a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development; or
    (b) The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;

(11) "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work;

nursing; or education;

(12) "Point of entry" means an easily-identifiable, highly-accessible nonstigmatized entry into services; and

(13) "Qualified service provider" means an entity, including but not limited to, an individual, program, department or agency, responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services.

Section 174. KRS 200.656 is amended to read as follows:

There is hereby created in state government the Kentucky Early Intervention System to provide services for infants and toddlers with a disability and their families. For administrative purposes, the Kentucky Early Intervention System shall be attached to the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 175. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Cabinet for ***Health Services***~~[Human Resources]~~. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for ***Public*** Health~~[Services]~~;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Social Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for Handicapped Children.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to five (5) years of age;

(f) Identify sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part H of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications; and

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any

barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 176. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(3) "Cabinet" means the Kentucky Cabinet for ***Health Services***[~~Human Resources~~];

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, approved by the Kentucky Cabinet for ***Health Services***[~~Human Resources~~] as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 177. KRS 202A.201 is amended to read as follows:

(1) When an inmate of any penal and correctional institution is reported by the staff of that institution to the Department of Corrections as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the Department of Corrections shall have an examination conducted on the inmate by a mental health professional.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the Department of Corrections, the commissioner of the Department of Corrections may then request of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] the inmate's transfer to a hospital or forensic psychiatric facility. If the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] agrees that a transfer is necessary, the person shall be transferred to a Cabinet for ***Health Services***[~~Human Resources~~] facility designated by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], where the person shall remain until the staff of the facility which received him advises the commissioner of the Department of Corrections that the person's condition is such that he may be returned to the institution from which he came. No transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The commissioner of the Department of Corrections shall then authorize his return. If the prisoner's sentence expires during his stay in the facility and he is still in need of involuntary hospitalization, the staff of the facility shall petition the applicable District Court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the commissioner shall:

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the Department of Corrections, except upon a finding, not arbitrarily made, of good cause for not permitting the presentation;

(d) Provide an independent decision maker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the factfinder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the Department of Corrections. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 178. KRS 202A.241 is amended to read as follows:

All individuals transporting or holding persons under KRS Chapter 202A, 202B, or 645, shall use the least restrictive level of restraint consistent with the person's needs. The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations subject to the provisions of KRS Chapter 13A which shall include guidelines addressing the person's need for privacy, particularly when being restrained, and the person's ability to communicate by phone at the earliest opportunity available.

Section 179. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a person who is employed as a physician of an ICF/MR;

(2) "Interdisciplinary team" means the group of persons responsible for the diagnosis, evaluation, and individualized program planning and service implementation for the resident. The team is composed of a physician, a psychologist, a registered nurse, a social worker, and other professionals, at least one (1) of whom is a qualified mental retardation professional, and may include the resident, the resident's family, or the guardian;

(3) "Cabinet" means the Kentucky Cabinet for ***Health Services***[~~Human Resources~~];

(4) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health care facility, or part thereof, approved by the Kentucky Cabinet for ***Health Services***[~~Human Resources~~] as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons;

(b) A hospital, institution, or health care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment given in the least confining setting which will provide a mentally retarded person appropriate treatment or care consistent with accepted professional practice. For purposes of this section, least restrictive alternative mode of treatment may include an institutional placement;

(9) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;

(10) "ICF/MR" means an intermediate care facility approved by the cabinet for the evaluation, care, and treatment of mentally retarded persons;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental retardation professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychologist licensed at the doctoral level or a psychologist or psychological associate certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under this chapter;

(c) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience of which one (1) year is with mentally retarded persons; or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who has three (3) years of inpatient or outpatient clinical experience of which one (1) year is in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services; and

(d) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with two (2) years of inpatient or outpatient clinical experience in social work of which one (1) year shall be in the field of mental retardation and is currently employed by an ICF/MR licensed by the cabinet, a hospital, a regional community mental health and mental retardation program, or a private agency or company engaged in the provision of mental retardation services;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Resident" means a person under care or treatment in an ICF/MR pursuant to the provisions of this chapter;

(15) "Respondent" means a person alleged in a hearing under this chapter to be a mentally retarded person; and

(16) "Secretary" shall mean the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 180. KRS 205.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Families and Children. For the purposes of KRS 205.510 to 205.645 and KRS 205.8451 to 205.8483, "cabinet" means the Cabinet for Health Services***[~~Human Resources~~];

(2) "Secretary" means the secretary for ***Families and Children***[~~human resources~~] or his authorized representative***. For the purpose of KRS 205.510 to 205.645 and KRS 205.8451 to 205.8483, "secretary" means the secretary of the Cabinet for Health Services or his authorized representative***;

(3) "Public assistance" means money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children, or persons with whom a needy child lives or a family

containing a combination of these categories, except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion. For purposes of this section and KRS 205.560, "abortion" means an act, procedure, device, or prescription administered or prescribed for a pregnant woman by any person, including the pregnant woman herself producing premature expulsion of the fetus. Abortion does not include an induced premature birth intended to produce a live viable child;

(4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments, and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;

(5) "Parent", in addition to biological or adoptive parent, shall include stepparent;

(6) "Needy aged" means a person who has attained the age of sixty-five (65) and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one (1) or more other persons;

(9) "Needy permanently and totally disabled" means a person eighteen (18) years of age or older and who has a permanent physical or mental impairment, disease, or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation, or other organization which provides a group living arrangement for four (4) or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one (1) or more individuals are cared for and maintained in residence;

(12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) "Person determined to be potentially responsible" means any person who:

- (a) Is not aged, blind, disabled, incapacitated, or needed in the home:
  - 1. Because of the illness or incapacity of a member of the family; or
  - 2. Because of children in the home under the age of six; or
- (b) Volunteers for such determination;

(14) As used in KRS 205.650 to 205.700, unless the context otherwise requires:

- (a) "Community work experience program" shall mean a program to provide work experience and training for recipients of public assistance who are not otherwise able to obtain employment or who are not actively participating in training or education programs;
- (b) "Designated geographic area" shall mean one (1) county or a portion of one (1) county selected by the secretary as the site of a community work experience program; and
- (c) "Recipient" shall mean a person who currently receives benefits from public assistance;

(15) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(16) "Adult day-care center" means any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults not related to the operator of the adult care facility by blood, marriage, or adoption.

Section 181. KRS 205.177 is amended to read as follows:

(1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in the possession of the Justice Cabinet, Cabinet for ***Health Services, Cabinet for Families and Children***[~~Human Resources~~], Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if ***the***[~~such~~] agency has a direct, tangible, legitimate interest in the individual concerned or his immediate family.

(2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible,

legitimate interest in the individual concerned or his immediate family.

Section 182. KRS 205.179 is amended to read as follows:

The Cabinet for ***Families and Children***~~[Human Resources]~~ shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the ***Office***~~[Division]~~ of Aging Services and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 183. KRS 205.180 is amended to read as follows:

The secretary for ***families and children***~~[human resources]~~ may authorize the destruction of such original reports and records as have been properly recorded or summarized in the permanent records of the cabinet or are no longer considered necessary to the proper administration of the cabinet. Such destruction or disposition shall be made only by order of the secretary. Any money received from the disposition of such records shall be deposited to the credit of trust and agency accounts.

Section 184. KRS 205.2002 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ shall take all necessary actions to ensure that at least five percent (5%) of all adults receiving aid to families with dependent children benefits as of July 15, 1988, shall, by July 1, 1989, be enrolled and participating in college, or a vocational training program, or a GED program, or employed and working not less than twenty-three (23) hours per week. For each year after July 1, 1989, the cabinet shall move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment until the total number of adult recipients employed or in training or education programs reaches twenty percent (20%) of total recipients. In meeting this goal, the cabinet shall not count any adult recipient leaving the Aid to Families with Dependent Children Program for reasons other than entering an education or training program or receiving a job.

(2) The cabinet shall file an annual report with the Legislative Research Commission and the Interim Joint Committee on Health and Welfare documenting the results of the cabinet's efforts to move aid to families with dependent children recipients into training or education programs and employment, and meeting the goals set forth in subsection (1) of this section. The report shall also include a plan reflecting what actions are being taken to meet these goals. The cabinet shall take into account the following factors to determine compliance with the goals set forth in subsection (1) of this section:

    (a) Adults aged sixty (60) shall not be included;

    (b) Adults receiving aid to families with dependent children due to disability shall not be included;

    (c) For purposes of meeting the criteria related to employed or working not less than twenty-three (23) hours per week, adults shall be considered if the aid to families with dependent children was discontinued during the reporting period for earned income and such case has remained closed for not less than ninety (90) days.

(3) If the cabinet fails to meet the goal of moving six percent (6%) of current aid to families with dependent children recipients into education or training programs or employment by July 1, 1990, the general fund share of the cabinet's cost of administering the Aid to Families with Dependent Children Program shall be reduced by a percentage or portion thereof equal to the percentage by which the cabinet fails to meet the goals set forth in subsection (1) of this section. The reduction in general fund share shall continue in the same manner if the cabinet fails to move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment.

Section 185. KRS 205.201 is amended to read as follows:

The duties of the Cabinet for ***Families and Children***~~[Human Resources]~~ shall be to:

(1) Promote and aid in the establishment of local programs and services for the aging;

(2) Conduct programs to educate the public as to problems of the aging;

(3) Review existing state programs and services for the aging and to make recommendations to the Governor, to the appropriate department and agencies of the state, and to the Legislature for improvements in and additions to such programs and services;

(4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;

(5) Conduct and encourage other organizations to conduct studies concerning the aging;

(6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;

(7) Provide services designed to meet the needs of the minority elderly in programs administered by the cabinet. The cabinet shall annually prepare a report identifying the special needs of the minority elderly population in the Commonwealth as compared to the elderly population at large. The report shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The report shall, at a minimum:

(a) Contain an overview of the health status of minority elderly Kentuckians;

(b) Identify specific diseases and health conditions for which the minority elderly are at greater risk than the general population;

(c) Identify problems experienced by the minority elderly in obtaining services from governmental agencies; and

(d) Identify programs at the state and local level designed to specifically meet the needs of the minority elderly;

(8) In preparing the report required by subsection (7) of this section, the cabinet shall solicit and consider the input of individuals and organizations representing the concerns of the minority elderly population as relates to:

(a) Programs and services needed by the minority elderly;

(b) The extent to which existing programs do not meet the needs of the minority elderly;

(c) The accessibility of existing programs to the minority elderly;

(d) The availability and adequacy of information regarding existing services;

(e) Health problems the minority elderly experience at a higher rate than the nonminority elderly population; and

(f) Financial, social, and other barriers experienced by the minority elderly in obtaining services;

(9) Conduct an outreach program that provides information to minority elderly Kentuckians about health and social problems experienced by minority elderly persons and available programs to address those problems, as identified in the report prepared pursuant to subsection (7) of this section; and

(10) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

Section 186. KRS 205.202 is amended to read as follows:

The secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ shall be empowered to accept and expend gifts and grants from any source. Such moneys shall go into a trust and agency fund to be administered by the cabinet in furtherance of the purposes of the provisions of KRS 205.201 to 205.204.

Section 187. KRS 205.203 is amended to read as follows:

(1) The secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ may provide, within budgetary limitations, for in-home services to the aging to include, but not necessarily limited to: homemaker services; home-help therapy services; day-care services; home-delivered meal services; transportation services; foster care services; and health services.

(2) The cabinet is authorized to collect fees for services rendered pursuant to this section in accordance with a fee schedule adopted by the secretary for ***families and children***~~[human resources]~~. The fee schedule shall take into consideration the ability of the patient or client to pay for such services. Fees shall not be collected from any person who is "needy aged" as defined by KRS 205.010.

(3) The secretary may utilize and promote available or potential community resources for the delivery of services to the aging and shall, when he deems appropriate, contract for services with local, community, private agencies, and individuals, including relatives of patients and clients, when such services would not otherwise be available without cost.

(4) The services to the aging authorized under this section are in addition and supplementary to any services to which the aging may be entitled under any other federal, state, or local governmental law, regulation, or program.

(5) The services to the aging authorized under this section shall be designed to meet the needs of the minority elderly as identified by the Cabinet for ***Families and Children***~~[Human Resources]~~ pursuant to KRS 205.201.

Section 188. KRS 205.204 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~, unless otherwise directed by an executive order of the Governor, is designated the agency of this state for the purpose of administering the Older Americans Act of 1965, Public Law 89-73, including all amendments thereto. In administering programs and allocating funds under the Older Americans Act, the cabinet shall design programs and allocate funds to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.

(2) The secretary for ***families and children***~~[human resources]~~ may promulgate such administrative regulations as are necessary to comply with any requirement imposed or required by federal law.

Section 189. KRS 205.217 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Case manager" means an employee of the area development district or an agency under contract with the area development district who shall assist any functionally impaired person in identifying and accessing the long term care services most appropriate to the individual's social and medical needs.

(b) "Functionally impaired person" means any person who is unable to perform without assistance any of the activities of daily living including, but not limited to dressing, bathing, toileting, transferring, or feeding, or any of the instrumental activities of daily living including but not limited to meal preparation, laundry, housecleaning, budgeting, and shopping.

(2) There shall be established within the Cabinet for ***Families and Children***~~[Human Resources]~~ a Long-term Care Case Management Demonstration Program to consolidate and coordinate all services provided or funded by the cabinet with respect to long-term care, conducted in at least three (3) area development districts. This demonstration program shall serve as the focal point for the provision of all services provided to functionally impaired persons to assure that services are consistent with the following goals:

(a) That functionally impaired persons be allowed to live independently at home or with others as long as the citizen desires without requiring inappropriate or premature institutionalization;

(b) That services provided or funded by the cabinet promote independent living by functionally impaired persons and prevent or minimize illness or social isolation;

(c) That institutional services be used only as a last resort when in-home or community based support services are not available or are not adequate to meet the needs of functionally impaired persons;

(d) That a single entry point for all services for functionally impaired persons be available to all persons in need of information about or access to the services; and

(e) That the use of informal providers of care, such as friends and relatives of functionally impaired persons, be used as long as possible before paid services are utilized.

(3) The following programs and services shall be included in the Long-term Care Case Management Demonstration Program:

(a) Hospital-based long term care services including dual licensed beds, swing beds and physical rehabilitation services, skilled nursing facility services, intermediate care facility services, nursing facility services, home health services, and home and community based waiver services funded by the Kentucky Medical Assistance Program;

(b) In-home and community based services for elderly persons funded under the Older Americans Act (42 U.S.C. Section 3001 et seq.) and Title XX of the Social Security Act (42 U.S.C. Sections 1397-1397f);

(c) Services provided under the home care program pursuant to KRS 205.460; and

(d) Personal care home services or domiciliary care funded by supplemental payments to persons receiving supplemental security income benefits pursuant to KRS 205.245.

(4) The Long-term Care Case Management Demonstration Program shall employ a system of case management to assure that appropriate services are provided to all persons using or applying for the services set forth in subsection (3) of this section, and that the services are consistent with the goals set forth in subsection (2) of this section. All persons applying for these services shall be assigned a case manager. The duties of the case manager shall include preparation of a general plan of care, based on the person's need for services, arranging placements or other needed services or equipment, coordination and management of the applicant through the eligibility process for these services, and reviewing each case on a periodic basis to assure the plan of care is being followed. Case management shall not include the determination of eligibility for Medicaid covered services, long-term care facility preadmission reviews, level of care determinations for purposes of Medicaid reimbursement, or peer review activities. The general plan of care shall not replace a daily care plan prescribed by a physician for treatment of a person in a hospital or long-term care facility or receiving home health services. The general plan of care shall identify the categories of services or type of placement required and the providers of the services. Case managers shall serve as advocates for applicants for the services set forth in subsection (3) of this section, and shall interact with the existing administrative structure within the Cabinet for ***Families and Children***~~[Human Resources]~~ to meet the goals stated in subsection (2) of this section. Patients discharged from a hospital to a long-term care facility shall receive case management services in the hospital on a timely basis or immediately after admission to a long-term care facility. The goal of each case plan shall be the provision of services in the least restrictive setting designed to best meet the individual needs of the functionally impaired person. When persons are determined to need services to maintain independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member, or volunteers.

(5) The cabinet, through the Long-term Care Demonstration Program, shall provide access to information, counseling and screening as appropriate, for persons potentially in need of long-term care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. In administering the Long-Term Care Demonstration Program, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201. The cabinet may charge a fee for providing information, counseling, and screening services based on the client's ability to pay.

(6) The secretary for ***families and children***~~[human resources]~~ may promulgate administrative regulations necessary to implement the Long-term Care Demonstration Program.

Section 190. KRS 205.245 is amended to read as follows:

Money payments made by the Cabinet for ***Families and Children***~~[Human Resources]~~ to the needy aged, needy blind, and the needy permanently and totally disabled shall be:

(1) Mandatory state supplementation of the supplemental security income program as established by federal law and regulations and administered in the manner agreed to by the secretary of the United States Department of Health, Education, and Welfare and the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~], or their authorized representatives; and

(2) Supplemental payments to persons requiring special living arrangements as they become eligible for the supplemental security income program, to insure the same level of care as those persons covered under the provisions of subsection (1) of this section.

Section 191. KRS 205.400 is amended to read as follows:

(1) There is established within the Cabinet for ***Families and Children***[~~Human Resources~~] an Energy Cost Assistance Program for making money payments to or on behalf of citizens of the Commonwealth for the purpose of purchasing or supplementing the cost of energy for household use.

(2) Citizens of the Commonwealth who incur expenses for providing energy by purchase from suppliers, by their own labors, or through the payment of rent, whether or not included in a charge for other goods and services, which includes the cost of energy supplied to premises occupied as their principal residence shall be eligible to receive the benefit of the payments to themselves or to providers of energy to such household if:

 (a) The citizen is sixty-two (62) years of age or older and has or is a member of a family having a gross income equal to or less than one hundred twenty-five percent (125%) of the poverty level of income for an individual or family of that size designated by the Community Services Administration of the United States government; or

 (b) The citizen is blind or permanently and totally disabled and receiving supplemental security income benefits under the Social Security Act or is blind or permanently and totally disabled and is currently eligible for Medicaid benefits under the Medical Assistance Program.

(3) The cabinet shall establish by regulation a schedule of payments and benefit levels under this program to be based on income, resources and family size. In no event shall payments be made to or on behalf of any person or family whose gross income from all sources exceeds one hundred twenty-five percent (125%) of the poverty level of income as provided for such individuals or family by the Community Services Administration of the United States government.

(4) Payments made under this section shall be for a period of four (4) months during each twelve (12) month period for which funds are available. At its discretion and to insure the proper application of the funds appropriated for this purpose, the cabinet may elect to make payments to vendors or suppliers or jointly to vendors and eligible recipients.

Section 192. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 and 205.465:

(1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.

(2) "Core services" means those services, including but not limited to client assessment and case management services, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.

(3) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~].

(4) "District" means an area development district designated[~~ as such~~] pursuant to KRS 147A.050.

(5) "Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.

(6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall include chore services, home delivered meals, home health aide services, homemaker services, respite services, escort services, and home repair services.

(7) "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.

(8) "Home delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is homebound by reason of illness, incapacity or disability.

(9) "Home health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(10) "Homemaker services" means general household activities, including but not limited to nonmedical personal care, shopping, meal preparation and routine household care, provided by a trained homemaker when the person regularly

responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.

(11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.

(12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

Section 193. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the Advisory Council for Medical Assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

(3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists or dentists licensed to render such services, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. However, this section does not authorize optometrists to perform any services other than those authorized by KRS Chapter 320;

(4) "Nurse" means a person authorized to practice professional nursing under the laws of the Commonwealth;

(5) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216B.015;

(6) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(9) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(10) "Primary care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(11) "Public assistance recipient" means a person who has been certified by the Department for Social Insurance of the Cabinet for ***Families and Children***[~~Human Resources~~] as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for ***health services***[~~human resources~~] or his designee;

(13) "Vendor payment" means a payment for medical care which is paid by the Cabinet for ***Health Services***[~~Human Resources~~] directly to the authorized person or institution which rendered medical care to an eligible recipient;

(14) "Third party" means an individual, institution, corporation, company, insurance company, personal representative, administrator, executor, trustee, or public or private agency, including but not limited to a reparation obligor and the assigned claims bureau under the Motor Vehicle Reparation Act, who is or may be liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or recipient of medical assistance provided under Title XIX of the Social Security Act.

Section 194. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

(2) The General Assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for ***health services***[~~human resources~~] may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.

(4) It is the intention of the General Assembly to comply with the provisions of Title XIX of the Social Security Act which

require that the Kentucky Medical Assistance Program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky Medical Assistance Program.

(5) The Kentucky Medical Assistance Program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

Section 195. KRS 205.540 is amended to read as follows:

(1) An Advisory Council for Medical Assistance shall be established in the state government. The council shall consist of eighteen (18) members. The secretary for ***health services***~~[human resources]~~ shall be an ex officio member. The other seventeen (17) members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four (4) years and until his successor is appointed and qualified. Ten (10) of the appointments shall be made one (1) from each list of three (3) nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmacists Association; the Kentucky Association of Health Care Facilities; the Kentucky Nurses' Association; the State Board of Podiatry; the Kentucky Home Health Association; the Kentucky Optometric Association; and the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other seven (7) appointive members shall be health care advocates knowledgeable about health care and the health care industry, and shall include three (3) medical assistance recipients, one (1) representative of a recognized consumer advocacy group representing the elderly; and three (3) representatives of recognized consumer advocacy groups whose membership includes low income persons, children and youth, women, minorities, and disabled persons.

(2) Each appointive member of the council shall serve without compensation but each council member not otherwise compensated for his time or expenses shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties with reimbursement for expenses being made in accordance with state regulations relating to travel reimbursement.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

(5) No consumer member of the council shall have a fiduciary relationship or interest in any health care facility or service.

Section 196. KRS 205.550 is amended to read as follows:

(1) The council shall advise the Cabinet for ***Health Services***~~[Human Resources]~~ about health and medical care services.

(2) The council shall have the opportunity for participation in policy development and program administration and shall advise the Cabinet for ***Health Services***~~[Human Resources]~~ on such matters.

(3) The council shall give advice regarding how to further the participation of recipient members in the policy development and program administration of the Medical Assistance Program.

Section 197. KRS 205.558 is amended to read as follows:

(1) To prevent inappropriate placement and to contain costs related thereto, the secretary for ***health services***~~[human resources]~~ shall implement a statewide prescreening and admissions review system, including the imposition of a resource means test, for all long-term care facilities and beds, as defined under KRS Chapter 216, and any acute care hospital based skilled nursing or intermediate care beds participating under Title XIX of the Social Security Act, regardless of the payment status of the resident upon admission. Any person having resources sufficient to cover the cost of care for at least three hundred sixty-five (365) days following admission may be admitted to a long-term care bed or facility if such person so desires; provided, however, that if a person:

(a) Is admitted to a long-term care facility or acute care hospital based skilled nursing or intermediate care bed without participating in the prescreening and admissions review system; or

(b) Participates in the prescreening and admissions review system and is not authorized for placement in a long-term care facility or acute care hospital based skilled nursing or intermediate care bed;

such person is not eligible for medical assistance payment for skilled nursing or intermediate care for one (1) year after the date of the person's admission to a skilled nursing or intermediate care facility or acute care hospital based skilled nursing or intermediate care bed unless the person subsequently participates in the prescreening and admissions review system and is authorized for admission to an intermediate care or skilled nursing facility or acute care hospital based skilled nursing or intermediate care bed.

(2) To implement the provisions of this section the cabinet shall establish preadmission screening teams composed of a

nurse, social worker and physician.

(3) Before preauthorization of any person for admission to an intermediate care facility or skilled care facility or acute care hospital based skilled nursing or intermediate care bed, the cabinet shall first make the following determinations:

(a) The health status and care needs of the person requires immediate institutionalization in an intermediate care facility or skilled nursing facility or acute care hospital based skilled nursing or intermediate care bed;

(b) The person and his family have been fully advised of alternatives to institutional care and possible sources of reimbursement for such care;

(c) Alternatives to institutional care are not feasible; and

(d) Other such determinations as specified by administrative regulations promulgated by the cabinet under KRS Chapter 13A.

(4) Admission of a person to an intermediate care facility, or a skilled nursing facility without first obtaining prior authorization from the Cabinet for ***Health Services***[~~Human Resources~~] shall constitute a Class B violation.

(5) The secretary for the cabinet shall promulgate such administrative regulations, subject to KRS Chapter 13A, as necessary to implement this section.

Section 198. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for ***Health Services***[~~Human Resources~~] undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for ***Health Services***[~~Human Resources~~] after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified ***in this paragraph***[~~herein~~];

(h) Services provided by health care delivery networks as defined in KRS 216.900; and

(i) Services provided by midlevel health care practitioners as defined in KRS 216.900.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for ***Health Services***[~~Human Resources~~] with respect to the bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the Medical Assistance Program, the Cabinet for ***Health Services***[~~Human Resources~~] shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. Department of Labor. Medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for ***Health Services***[~~Human Resources~~] if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for ***Health Services***[~~Human Resources~~]. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for ***Health Services***[~~Human Resources~~]. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for ***Health Services***[~~Human Resources~~]; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~] shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) No long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid

reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family practice physicians practicing in geographic areas with no more than one (1) primary care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for ***Health Services***[~~Human Resources~~] may make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

Section 199. KRS 205.565 is amended to read as follows:

(1) For the purposes of this section, a "pediatric teaching hospital" is defined as an acute care hospital as licensed under KRS Chapter 216B and which has designated and operates no less than one hundred fifty (150) beds for pediatric services and which is either operated by one (1) of the Commonwealth's schools of medicine and which has a pediatric teaching program or which has an affiliation agreement for pediatric services, teaching, and research with a school of medicine for the Commonwealth.

(2) For purposes of inpatient hospital reimbursement under the Kentucky Medical Assistance Program, the Cabinet for ***Health Services***[~~Human Resources~~] shall recognize the unique costs of any pediatric teaching hospital.

Section 200. KRS 205.594 is amended to read as follows:

As used in KRS 205.593 to 205.598, the term "insurer" includes a group health plan, as defined in Section 607(1) of the Employment Retirement Income Security Act of 1974, a health maintenance organization, and an entity offering a health service benefit plan.

(1) Health insurers shall be prohibited from denying enrollment of a child under the health coverage of the child's parent on the grounds that:

(a) The child was born out of wedlock;

(b) The child is not claimed as a dependent on the parent's federal income tax return; or

(c) The child does not reside with the parent or in the health insurer's area.

(2) If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall be required:

(a) To permit the parent to enroll under the family coverage any child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(b) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for ***Families and Children***[~~Human Resources~~]; and

(c) Not to disenroll, or eliminate coverage of, a child unless the insurer is provided satisfactory written evidence that:

1. A court or administrative order requiring coverage of the child is no longer in effect; or

2. The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of the disenrollment.

Section 201. KRS 205.595 is amended to read as follows:

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the Commonwealth, the employer is required:

(1) To permit the parent to enroll under family coverage any child who is otherwise eligible for the coverage, without regard to any enrollment season restrictions;

(2) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for ***Families and Children***[~~Human Resources~~];

(3) Not to disenroll or eliminate coverage of a child unless:

(a) The employer is provided satisfactory written evidence that a court or administrative order requiring coverage of the child is no longer in effect, or that the child is or will be enrolled in comparable health coverage which will take effect no later than the effective date of the disenrollment; or

(b) The employer has eliminated family health coverage for all of its employees; and

(4) To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, except that the amount withheld may not exceed the maximum amount permitted to be withheld under Section 303(b) of the Federal Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

Section 202. KRS 205.598 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ shall withhold the wages, salary, or other employment income of, and require withholding amounts from state tax refunds to, any person who:

(a) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance;

(b) Has received payment from a third party for the costs of the services for the child; but

(c) Has not used these payments to reimburse either the other parent or guardian of the child, or the provider of the services.

(2) Any claims for current or past-due child support income shall take priority over the claims for the costs of reimbursing the Medical Assistance Program for child medical support.

Section 203. KRS 205.623 is amended to read as follows:

(1) All insurance companies licensed under KRS Chapter 304 shall provide upon request to the Cabinet for ***Health Services***~~[Human Resources]~~, by electronic means and in the format prescribed by the cabinet, coverage information and claims paid data on Medicaid eligible policyholders and dependents. The data obtained on Medicaid eligibles shall be used by the cabinet to determine the availability of other medical benefits in order to ascertain Medicaid is the payor of last resort.

(2) All information obtained by the cabinet pursuant to this section shall be confidential and shall not be open for public inspection.

Section 204. KRS 205.624 is amended to read as follows:

(1) An applicant or recipient shall be deemed to have made to the cabinet an assignment of his rights to third-party payments to the extent of medical assistance paid on behalf of the recipient under Title XIX of the Social Security Act. The applicant or recipient shall be informed in writing by the cabinet of such assignment.

(2) The cabinet shall have the right of recovery which a recipient may have for the cost of hospitalization, pharmaceutical services, physician services, nursing services, and other medical services not to exceed the amount of funds expended by the cabinet for such care and treatment of the recipient under the provisions of Title XIX of the Social Security Act.

(a) If a payment for medical assistance is made, the cabinet, to enforce its right, may:

1. Intervene or join in an action or proceeding brought by the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors against a third party who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled recipient, in state or federal court; or

2. Institute and prosecute legal proceedings against a third party who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled recipient, in state or federal court, either alone or in conjunction with the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors; or

3. Institute the proceedings in its own name or in the name of the injured, diseased, or disabled person, the person's guardian, personal representative, estate, dependents, or survivors.

(b) The injured, diseased, or disabled person may proceed in his own name, collecting costs without the necessity of joining the cabinet or the Commonwealth as a named party, provided the injured, diseased, or disabled person shall notify the cabinet of the action or proceeding entered into upon commencement of the action or proceeding. The injured, diseased, or disabled person must notify the cabinet of any settlement or judgment of his or her claim.

(c) In the case of an applicant for or recipient of medical assistance whose eligibility is based on deprivation of parental care or support due to absence of a parent from the home, the cabinet may:

1. Initiate a civil action or other legal proceedings to secure repayment of medical assistance expenditures for which the absent parent is liable; and

2. Provide for the payment of reasonable administrative costs incurred by such other state or county agency requested by the cabinet to assist in the enforcement of securing repayment from the absent parent.

(3) Each insurer issuing policies or contracts under Subtitle 17, 18, 32, or 38 of KRS Chapter 304 shall cooperate fully with the Cabinet for ***Health Services***~~[Human Resources]~~ or an authorized designee of the cabinet in order for the cabinet to comply with the provisions of subsection (1) of this section.

Section 205. KRS 205.6310 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a system within the Medical Assistance Program to reduce unnecessary hospital emergency room utilization and costs by redefining and controlling hospital emergency utilization. The cabinet shall establish by promulgation of administrative regulations, pursuant to KRS Chapter 13A, the following:

(1) Criteria and procedures, at least annually updated, that differentiate children and adults, and which conform to the Federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. sec. 1395dd), as amended, and any other applicable federal law or regulation for determining if a medical emergency exists;

(2) Reimbursement rates that provide for nominal reimbursement of emergency room care for care that does not meet the criteria established for a medical emergency;

(3) Reimbursement, at rates determined by the cabinet, for ancillary services which, based upon the symptoms of the patient, are medically appropriate to determine if a medical emergency exists;

(4) Except for emergency room services rendered to children under the age of six (6), prohibition of reimbursement at hospital emergency room rates for diagnosis and treatment for a condition that does not meet the criteria established for a medical emergency; and

(5) The provisions of this section shall apply to any managed care program for Medicaid recipients.

The cabinet or its designated peer review organization shall review all claims for payment of nonemergency hospital care and deny payment for any ancillary services determined as not medically appropriate.

Section 206. KRS 205.6314 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review the Medical Assistance Program reimbursement rates for emergency transportation providers to determine if existing rates are fair and reasonable. Notwithstanding this review, the cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A do the following:

(1) Prescribe reimbursement rates for emergency transportation providers to ensure that emergency rates are paid only for transporting medical assistance recipients to the emergency room of a hospital in emergency situations;

(2) Establish, in nonemergency cases, lower medical assistance reimbursement rates for emergency transportation providers for the transportation of stretcher patients from nursing homes to physician offices or hospitals; and

(3) Establish a verification system that requires medical providers to confirm that medical assistance recipients have appointments for medical services and that medical services were medically necessary and were obtained prior to payment by the cabinet to the emergency transportation provider.

Section 207. KRS 205.6316 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review the procedures for medical assistance reimbursement of pharmacists to reduce fraud and abuse. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(1) Point-of-sale computer technology, with integration of data at the physician's office and the pharmacy, that will permit prospective drug utilization review;

(2) Usage parameters by drug class to enable medical necessity and appropriateness reviews to be conducted prior to payment;

(3) A dialog among the Department for Medicaid Services, the Kentucky Medical Board of Licensure, and the Kentucky Board of Pharmacy, to develop recommendations for legislation for the 1996 Regular Session of the General Assembly that will strengthen the generic substitution laws for prescription medication;

(4) A dispensing fee for each prescription in accordance with the findings of the report submitted by the cabinet pursuant to KRS 205.561.

Section 208. KRS 205.6318 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review the available technology associated with the medical assistance system to determine which technology is best suited to enhance program service operation, monitoring ability, and fraud and abuse detection. This shall include the ability to provide on-line access to data files to allow cross-analysis of provider and recipient utilization patterns. The cabinet shall by promulgation of administrative regulations, pursuant to KRS Chapter 13A, establish an integrated system to enhance program integrity, using a combination of staff, computer technology, and contractual services to identify potential fraud, abuse, and misutilization of services. This system shall:

(1) Utilize statisticians, program specialists, accountants, nurses, and other medical specialists to review the Medical Assistance Program to identify patterns of provider and recipient behavior that contributes to unnecessary or abusive use of program services;

(2) Utilize computer capability through contractual services or the purchase of computer software to detect the unbundling of claims and other techniques used by providers to enhance reimbursement;

(3) Impose utilization controls on the expenditures in respiratory, physical, speech, and occupational therapy and durable medical equipment provided to nursing home residents, through the use of established medical criteria or preauthorization of ancillary therapies;

(4) Establish state audit and edit requirements that exceed the federal audit and edit requirements;

(5) Obtain access to necessary data from the fiscal agent of each medical provider;

(6) Review the efficiency and effectiveness of the fraud and abuse detection and investigation process to determine whether changes shall be made;

(7) Direct that fraud and abuse detection and investigation components shall be active in initiating investigations. The fraud and abuse detection, investigation and prosecution functions shall be integrated, with access to information in files maintained by the Department for Social Insurance and the Department for Medicaid Services;

(8) Review penalties for deterrent value for medical providers that are found to have abused Medicaid regulations and statutes; and

(9) Provide for a proactive effort to reduce costs for institutionalized program participants. Program officials shall seek to implement innovative or experimental demonstration programs that aim to control costs.

Section 209. KRS 205.6320 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall seek to strengthen the managed care component of the KenPAC Program. The cabinet shall by promulgation of administrative regulation, pursuant to KRS Chapter 13A, establish the following:

(a) Inclusion of noninstitutionalized blind, aged, and disabled recipients in an effort to reduce inappropriate usage as permitted by federal Medicaid regulations;

(b) Financial incentives for KenPAC physicians who effectively manage the care of their patients. These incentives may include an increase in the case management fee for demonstrated effective case management, or through other arrangements that encourage the effective and efficient management of patients. Clear and concise administrative regulations promulgated under KRS Chapter 13A shall be established by the cabinet to determine physician qualification for the incentives;

(c) A pilot project to establish an oversight and education program in the KenPAC system to assist with patient education regarding the appropriate and effective use of the system and to assist providers with more efficient management of patients;

(d) Criteria to avoid duplication of the provision of early and periodic screening, diagnosis, and treatment type services to children in the KenPAC Program;

(e) A review of the feasibility of a demonstration project to allow health maintenance organizations to bid on the provision of services to KenPAC participants;

(f) Extension of KenPAC to all counties within the state. The cabinet shall determine the feasibility of working with state-supported medical schools to obtain physicians in the counties where KenPAC does not operate; and

(g) More stringent reporting and verification requirements in contracts with KenPAC physicians regarding verification of services provided to KenPAC patients.

(2) The secretary shall promulgate by administrative regulation standards for access and quality which any health maintenance organizations serving Medicaid recipients shall meet. The secretary shall not provide Medicaid services through a health maintenance organization which does not demonstrate the capacity to meet the standards. The standards shall address at least the following subjects:

(a) Access to care including patient to physician ratios, availability of appropriate specialists, distance to care, travel and waiting times, and physical and language barriers;

(b) Internal and external methods for monitoring quality of care;

(c) Data collection and reporting, including provision of data on utilization, outcomes, enrollee satisfaction, and the number, type, and resolution of grievances and complaints, with subpopulation data for at risk populations;

(d) Due process procedures including written notice of appeal rights, timelines for resolution of complaints, and expedited appeals processes;

(e) Consumer representation and patient advocacy; and

(f) Marketing practices including prohibited practices and standards for advertisements and printed marketing materials.

Section 210. KRS 205.6322 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall seek to prohibit the sheltering of assets in medical assistance long-term care cases by promulgation of administrative regulations, pursuant to KRS Chapter 13A, that establish the following:

(1) Consideration of assets placed in Medicaid-qualifying trusts as a prohibited transfer of resources, to the extent prohibited by federal law;

(2) Revision of Medicaid policy to provide that assets funding the purchase of an annuity shall be treated as a transfer of resources unless the annuity is actuarially sound as defined in administrative regulations promulgated by the cabinet pursuant to KRS Chapter 13A;

(3) Revision of Medicaid policy to treat income producing property as an available resource to the extent allowed by federal law;

(4) Review of Medicaid eligibility procedures and operation to improve eligibility verification and detection of fraud and abuse; and

(5) Review of the feasibility of instituting a photographic identification card, possibly in conjunction with other entitlement programs, to reduce fraud and abuse through misuse of Medicaid identification cards.

Section 211. KRS 205.6324 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall by promulgation of administrative regulations enhance third-party resource collection capacity in Medicaid cases through utilization of in-house personnel and selective contracting for high-volume or high-technological services.

Section 212. KRS 205.6326 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall review all medical assistance reimbursement systems for appropriateness and cost effectiveness. The review shall include:

(1) Review of cost-based reimbursement policies for hospitals and nursing homes to determine the effectiveness and appropriateness of alternate systems. Consideration shall be given to the use of modified diagnostic-related groups and resource utilization groups systems, using capitated payment methods; and

(2) Review of reimbursement rates for physicians to determine whether savings or cost containment would be better achieved through using a relative based resource value scale system, a capitated payment method, or other alternative methods of reimbursement; and

(3) For all Medicaid-covered long-term care services, implementation of a standardized patient assessment tool and consistent quality-of-care mandates.

Section 213. KRS 205.6334 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall request any waivers of federal law that are necessary to implement the provisions of KRS 205.6310 to 205.6332.

Section 214. KRS 205.6336 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet, after consultation with the secretary for the Cabinet for ***Health Services***[~~Human Resources~~], shall on a quarterly basis, certify to the Interim Committee on Appropriations and Revenue the general fund savings realized from the procedures required by KRS 205.6310 to 205.6332 and any other procedures adopted by the Cabinet for ***Health Services***[~~Human Resources~~] or the Kentucky Health Policy Board to control the cost of health care.

(2) The certification shall indicate the following:

(a) The means by which savings were achieved, including a description of the discrete procedure used to achieve the savings; and

(b) The amount saved as a result of the specific procedure, including an explanation as to the calculations and assumptions used in determining the amount.

(3) The amount certified by the secretary under this section shall be transferred to a trust account to be utilized by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] to provide health care coverage for additional categories of citizens, but the funds in the trust account shall not be spent until appropriated by the General Assembly. The funds in the trust account shall not lapse. The secretary shall give priority in utilizing any appropriated trust account funds to matching available federal funds in the Medicaid program.

(4) Savings in the general fund appropriation for the Medicaid program shall be determined as follows:

(a) To the extent that the average cost per month per eligible actually experienced by the Medicaid program is less than the average cost per month per eligible reflected in the enacted budget, the savings attributable to that difference shall be deemed to be eligible for certification under this section.

(b) To the extent that the number of eligibles actually participating in the Medicaid program is less than the number reflected in the enacted budget, the savings attributable to that difference shall be deemed not eligible for certification under this section.

(5) Savings in the general fund appropriation to the Department ***for Mental Health and Mental Retardation Services***[~~of Mental Health~~] shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(6) Savings in the general fund appropriation to the Department for ***Public*** Health [~~Services~~]shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(7) Savings in the general fund appropriation to the Department of Social Services shall be determined by certifying the amount of Medicaid payments received by the department and the entities it funds that would not have been received under the eligibility requirements for the Medicaid program in effect for the 1993-1994 fiscal year.

(8) Only those savings that can be certified as being recurring shall be transferred to the trust fund.

Section 215. KRS 205.6338 is amended to read as follows:

(1) Within one (1) year of obtaining necessary waivers from the Federal Health Care Financing Administration, the Secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall take all necessary steps to implement from one (1) to three (3) pilot projects to provide health care services to frail elderly Medicaid-eligible individuals through fully integrated managed care systems for the elderly similar to the Program of All-Inclusive Care for the Elderly (PACE) program currently being replicated on a national basis with the approval of Congress.

(2) Within ninety (90) days of July 15, 1994, the Secretary of the Cabinet for Human Resources shall request the appropriate waivers from the Federal Health Care Financing Administration to implement a PACE program or a similar program in Kentucky.

Section 216. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of eighty-one million dollars ($81,000,000) for fiscal year 1995, and eighty-six million five hundred thousand dollars ($86,500,000) for fiscal year 1996 including provider tax revenues and federal matching funds, to the extent possible, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

  (a) The sum of one million dollars ($1,000,000) in fiscal year 1995, and one and one-half million dollars ($1,500,000) in fiscal year 1996, taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~].

  (b) The amount remaining in the MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] in accordance with this section.

  (c) No individual hospital shall receive distributions from the MAIT fund that exceed indigent inpatient care provided by the hospital that meet the guidelines established in paragraphs (a) and (b) of this subsection and documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate.

  (d) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

    1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals

and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital, and except nonemergency care rendered through a hospital emergency room, level to the Cabinet for ***Health Services***~~[Human Resources]~~ on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.

2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for ***Health Services***~~[Human Resources]~~, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the lesser of each hospital's individual per diem rate or the weighted median per diem for hospitals in each peer group, as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for ***Health Services***~~[Human Resources]~~, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(6) Except for nonemergency care rendered through a hospital emergency room, hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(7) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and 18A.2281;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

Section 217. KRS 205.645 is amended to read as follows:

Notwithstanding any provision of KRS 205.560, the Cabinet for ***Health Services***~~[Human Resources]~~ shall recognize the reasonable and appropriate varying overhead costs associated with different areas of specialty for the purposes of establishing the standard reimbursement rate for physician services, dental services, and services provided by other independent providers under the Kentucky Medical Assistance Program.

Section 218. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the Cabinet for ***Families and Children***~~[Human Resources]~~;

(2) "Secretary" shall mean the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay maintenance when included in the child support order or when assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever

health care coverage is available at a reasonable cost;

(6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;

(7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from aid to families with dependent children, or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 219. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support Enforcement is established in the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) The duties of the division of child support, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 667;

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment of paternity form;

(e) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support; and

(f) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212.

(3) The cabinet shall establish a system to receive and process all child support payments. The system shall include compatible computer systems to record the payments. After the establishment of the compatible computer child support collection system, the cabinet or its designee, shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(4) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is cancelled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(5) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of whom services are sought.

Section 220. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. The lien shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.

(2) The cabinet shall file its claim of lien within three (3) years from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the Cabinet for ***Families and Children***[~~Human Resources~~], claims a lien in the amount of .... plus all unpaid child support hereafter accruing, including interest, until paid in full on the (describe property) of (name of obligor) for child support owed to obligor's dependent children or for such public assistance moneys as may have been paid to obligor's children by the Cabinet for ***Families and Children***[~~Human Resources~~]."

(3) The cabinet shall notify the obligor of the filing of its claim of lien.

Section 221. KRS 205.8451 is amended to read as follows:

As used in KRS 205.8451 to 205.8483, unless the context otherwise requires:

(1) "Benefit" means the receipt of money, goods, or anything of pecuniary value from the medical assistance program.

(2) "Fraud" means an intentional deception or misrepresentation made by a recipient or a provider with the knowledge that the deception could result in some unauthorized benefit to the recipient or provider or to some other person. It includes any act that constitutes fraud under applicable federal or state law.

(3) "Immediate family member" means a parent, grandparent, spouse, child, step-child, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, or grandchild.

(4) "Intentional" or "intentionally" means, with respect to a result or to conduct described by a statute defining an offense, that a person's conscious objective is to cause that result or to engage in that conduct.

(5) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware that his conduct is of that nature or that the circumstance exists.

(6) "Medical assistance program" means the program of medical assistance as administered by the Cabinet for ***Health Services***[~~Human Resources~~] in compliance with Title XIX of the Federal Social Security Act and any administrative regulations related thereto.

(7) "Provider" means an individual, company, corporation, association, facility, or institution which is providing or has been approved to provide medical services, goods, or assistance to recipients under the medical assistance program.

(8) "Provider abuse" means, with reference to a health care provider, practices that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary cost to the medical assistance program established pursuant to this chapter, or that result in reimbursement for services that are not medically necessary or that fail to meet professionally-recognized standards for health care. It also includes practices that result in unnecessary cost to the medical assistance program.

(9) "Recipient" means any person receiving or who has received medical assistance benefits.

(10) "Recipient abuse" means, with reference to a medical assistance recipient, practices that result in unnecessary cost to the medical assistance program or the obtaining of goods, equipment, medicines, or services that are not medically necessary, or that are excessive, or constitute flagrant overuse or misuse of medical assistance program benefits for which the recipient is covered.

(11) "Wantonly" means, with respect to a result or to a circumstance described by a statute defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts wantonly with respect thereto.

Section 222. KRS 205.8453 is amended to read as follows:

It shall be the responsibility of the Cabinet for ***Health Services***[~~Human Resources~~] and the Department for Medicaid Services to control recipient and provider fraud and abuse by:

(1) Informing recipients and providers as to the proper utilization of medical services and methods of cost containment;

(2) Establishing appropriate checks and audits within the Medicaid Management Information System to detect possible instances of fraud and abuse;

(3) Sharing information and reports with other departments within the Cabinet for ***Health Services***[~~Human Resources~~], the Office of the Attorney General, and any other agencies that are responsible for recipient or provider utilization review; and

(4) Instituting other measures necessary or useful in controlling fraud and abuse.

Section 223. KRS 205.8455 is amended to read as follows:

(1) To implement provisions of this section, the Commissioner of the Department for Medicaid Services shall create, no later than July 30, 1994, a Recipient Utilization Review Committee with the authority to:

(a) Review individual recipient utilization or program benefits, recipient medical records, and other additional information or data necessary to make a decision;

(b) Determine if a recipient has utilized the program or services in a fraudulent or abusive manner;

(c) Refer cases of suspected recipient fraud to the Office of the Inspector General in the Cabinet for ***Health Services***[~~Human Resources~~];

(d) Institute administrative actions to restrict or revoke the recipient's participation in the medical assistance program; and

(e) Initiate actions to recover the value of benefits received by the recipient which were determined to be related to fraudulent or abusive activities.

(2) The Recipient Utilization Review Committee shall be composed of five (5) members as follows: one (1) licensed physician, one (1) representative from the same program benefit area that is the subject of the review, one (1) recipient or representative of medical assistance benefits, one (1) representative of the Surveillance and Utilization Review Subsystems Unit, as required under Title XIX of the Social Security Act, and the commissioner of the Department for ***Public*** Health[~~ Services~~], who shall serve by virtue of his or her office.

(3) A medical assistance recipient whose eligibility has been revoked due to defrauding the medical assistance program shall not be eligible for future medical assistance services for a period of not more than one (1) year or until full restitution has been made to the Department for Medicaid Services, whichever comes first.

(4) When a medical assistance recipient whose eligibility has been revoked due to defrauding of the medical assistance program reapplies for coverage, during the period of revocation, due to pregnancy, a communicable disease or other condition that creates a risk to public health, or a condition which if not treated could result in immediate grave bodily harm, the recipient utilization review committee for the Department for Medicaid Services may change the revoked status of the previously eligible recipient to restricted status if it has been determined that it would be in the best interest of the previously eligible medical assistance recipient to receive coverage for medical assistance services and the person is otherwise eligible. If this change in status is granted, the case shall be reconsidered by the recipient utilization review committee within sixty (60) days after the restricted status takes effect.

(5) Upon determination by the Recipient Utilization Review Committee of the Department for Medicaid Services that a medical assistance recipient has abused the benefits of the medical assistance program, the recipient shall immediately be assigned and restricted to a managed care primary physician designated by the Department for Medicaid Services. Except in the case of an emergency as defined by the recipient utilization review committee and set forth by the Cabinet for ***Health Services***[~~Human Resources~~] in an administrative regulation promulgated pursuant to KRS Chapter 13A, the restricted recipient shall be eligible to receive covered services only upon presenting to a participating provider, prior to the receipt of services, a dated written referral by the assigned managed care primary physician. Any participating

provider who provides services to a medical assistance recipient in violation of the provisions of this subsection shall not be eligible for reimbursement for any services rendered.

(6) The Cabinet for ***Health Services***[~~Human Resources~~] shall request any waivers of federal law that are necessary to implement the provisions of this section.

(7) The provisions of paragraphs (d) and (e) of subsection (1) of this section and of subsections (3), (4), and (5) of this section shall have no force or effect until and unless the requested waivers are granted.

(8) Nothing in this section shall authorize the Cabinet for ***Health Services***[~~Human Resources~~] to waive the recipient's or provider's rights to prior notice and hearing as guaranteed by federal law.

(9) All complaints received by the Department for Medicaid Services, the Office of Inspector General, the Office of the Attorney General, or by personnel of the Cabinet for ***Health Services***[~~Human Resources~~] concerning possible fraud or abuse by a medical assistance recipient shall be forwarded immediately to the Recipient Utilization Review Committee for its consideration. Any cases of possible recipient fraud or abuse uncovered by personnel of the Cabinet for ***Health Services***[~~Human Resources~~] or by providers shall also be referred immediately to the Recipient Utilization Review Committee for its review. Records shall be kept of all cases, including records of disposition, considered by the Recipient Utilization Review Committee.

Section 224. KRS 205.8457 is amended to read as follows:

Any provider agreeing to participate as a managed care primary physician of the state's medical assistance program shall be responsible for prior approval of all medical-related services and goods, except transportation, of recipients assigned to the primary physician's care as set forth under administrative regulation promulgated by the Cabinet for ***Health Services***[~~Human Resources~~] pursuant to KRS Chapter 13A. No primary physician may delegate that primary physician's authority to anyone except a provider designated by the managed care primary physician to temporarily be responsible for the primary physician's managed care patients during the primary physician's absence. The temporarily designated provider shall be approved by the Department for Medicaid Services. Procedures for delegation of authority to a temporarily designated provider shall be approved by the Department for Medicaid Services in accordance with any applicable federal laws or regulations.

Section 225. KRS 205.8463 is amended to read as follows:

(1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for ***Health Services***[~~Human Resources~~], or intentionally engage in conduct which advances the scheme or artifice.

(2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for ***Health Services***[~~Human Resources~~] any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.

(3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, home health agency, or other provider of services to the medical assistance program.

(4) No person shall, in any matter within the jurisdiction of the Cabinet for ***Health Services***[~~Human Resources~~] under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.

(5) Any person who violates subsections (1) and (2) of this section shall be guilty of a Class A misdemeanor unless the sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at three hundred dollars ($300) or more in which case it shall be a Class D felony. Any person who violates the provisions of subsection (3) of this section shall be guilty of a Class C felony. Any person who violates the provisions of subsection (4) of this section shall be guilty of a Class D felony.

Section 226. KRS 205.8465 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a violation of this chapter has been or is being committed by any person, corporation, or entity, shall report or cause to be reported to the state Medicaid Fraud Control Unit, or the Medicaid Fraud and Abuse hotline, the following information, if known:

(a) The name and address of the offender;

(b) The offender's place of employment;

(c) The nature and extent of the violation;

(d) The identity of the complainant; and

(e) Any other information that the receiving person reasonably believes might be helpful in investigation of the alleged fraud, abuse, or misappropriation.

The state Medicaid Fraud Control Unit shall periodically publicize the provisions of this subsection.

(2) The identity of any person making a report under this section shall be considered confidential by the receiving party. Any person making a report under this section regarding the offenses of another shall not be liable in any civil or criminal action based on the report if it was made in good faith.

(3) No employer shall, without just cause, discharge or in any manner discriminate or retaliate against any person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483, testifies, or is about to testify, in any proceeding with regard to any report or investigation. Any individual injured by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations, and to recover the actual damages sustained, together with the costs of the lawsuit, including a reasonable fee for the individual's attorney of record.

(4) No employee of the state Medicaid Fraud Control Unit, the Office of the Attorney General, the Office of the Inspector General, or the Cabinet for ***Health Services***[~~Human Resources~~] shall notify the alleged offender of the identity of the person who in good faith makes a report required or permitted by KRS 205.8451 to 205.8483 nor shall the employee notify the alleged offender that a report has been made alleging a violation of KRS 205.8451 to 205.8483 until such time as civil or criminal proceedings have been initiated or a formal investigation has been initiated. Any information or report concerning an alleged offender shall be considered confidential in accordance with the Kentucky Open Records Law, KRS 61.870 to 61.884.

Section 227. KRS 205.8467 is amended to read as follows:

(1) Any provider who has been found by a preponderance of the evidence in an administrative process, in conformity with any applicable federal regulations and with due process protections, to have knowingly submitted or caused claims to be submitted for payment for furnishing treatment, services, or goods under a medical assistance program provided under this chapter, which payment the provider was not entitled to receive by reason of a violation of this chapter, shall:

(a) Be liable for restitution of any payments received in violation of this chapter, and interest at the maximum legal rate pursuant to KRS 360.010 in effect on the date any payment was made, for the period from the date payment was made to the date of repayment to the Commonwealth;

(b) Be liable for a civil payment in an amount up to three (3) times the amount of excess payments;

(c) Be liable for payment of a civil payment of five hundred dollars ($500) for each false or fraudulent claim submitted for providing treatment, services, or goods;

(d) Be liable for payment of legal fees and costs of investigation and enforcement of civil payments; and

(e) Be removed as a participating provider in the medical assistance program for two (2) months to six (6) months for a first offense, for six (6) months to one (1) year for a second offense, and for one (1) year to five (5) years for a third offense.

(2) Civil payments, interest, costs of investigation, and enforcement of the civil remedies recovered on behalf of the Commonwealth under this section shall be remitted to the State Treasurer for deposit in a Medicaid trust fund which is hereby created and shall not lapse. Funds deposited in the Medicaid trust fund shall not be spent until appropriated by the General Assembly for medical assistance services.

(3) The remedies under this section are separate from and cumulative to any other administrative, civil, or criminal remedies available under federal or state law or regulation.

(4) The Cabinet for ***Health Services***[~~Human Resources~~], in consultation with the Office of the Attorney General, may promulgate administrative regulations, pursuant to KRS Chapter 13A, for the administration of the civil payments contained in this section.

Section 228. KRS 205.8469 is amended to read as follows:

(1) The Attorney General, on behalf of the Commonwealth, may commence proceedings to enforce KRS 205.8451 to 205.8483, and to prosecute for all other criminal offenses that involve or are directly related to the use of any medical assistance program funds or services provided under this chapter.

(2) In enforcing KRS 205.8451 to 205.8483, the Attorney General may subpoena witnesses or documents to the grand jury, District Court, or Circuit Court of the county or counties where venue lies, and subpoena witnesses or documents to the Office of the Attorney General to secure testimony for use in civil or criminal trials, investigations, or hearings affecting the Cabinet for ***Health Services***[~~Human Resources~~].

Section 229. KRS 205.8471 is amended to read as follows:

(1) The Commonwealth shall have a lien against all property of any provider or recipient who is found to have defrauded the Medicaid program for an amount equal to the sum defrauded plus any interest and penalties levied under KRS 205.8451 to 205.8483. The lien shall attach to all property and rights to property owned by the provider or recipient and all

property subsequently acquired after a finding of fraud by the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) The lien imposed by subsection (1) of this section shall not be defeated by gift, devise, sale, alienation, or any other means, and shall include the sum defrauded and all interest, penalties, fees, or other expenses associated with collection of the debt. The lien shall have priority over any other lien or obligation against the property, except as provided in subsection (3) of this section.

(3) The lien imposed by subsection (1) of this section shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien which was filed prior to the date on which notice of the lien created by this section is filed by the secretary for ***health services***~~[human resources]~~ or his designee with the county clerk of the county or counties in which the provider's business or residence is located, or in any county in which the taxpayer has an interest in property. The notice of lien shall be recorded in the same manner as the notice of lis pendens.

(4) The secretary for ***health services***~~[human resources]~~ shall issue a partial release of any part of the property subject to lien upon payment by the debtor of that portion of the debt and any interest, penalty, or fees covered by the lien on that property.

(5) The secretary for ***health services***~~[human resources]~~ may enforce the lien created pursuant to this section in the manner provided for the enforcement of statutory liens under KRS 376.110 to 376.130.

Section 230. KRS 205.8473 is amended to read as follows:

In a prosecution for any violation of the provisions of KRS 205.8451 to 205.8483, it shall be a defense if the person relied on the written advice of an employee or agent of the Cabinet for ***Health Services***~~[Human Resources]~~, and the advice constitutes a defense under any of the provisions of KRS 501.070.

Section 231. KRS 205.8477 is amended to read as follows:

(1) Each health facility and health service as defined in KRS 216B.015 and each provider, participating in the medical assistance program shall, as a condition of participation in the medical assistance program, file annually with the Cabinet for ***Health Services***~~[Human Resources]~~ the names and addresses of all persons having direct or indirect ownership or control interest, as defined in 42 C.F.R. 455.101, with five percent (5%) or more interest in the health facility, or health service or the business of the provider and those medical assistance program participating health facilities or health services with which the reporting provider, or health facility, or health service engages in a significant business transaction or a series of transactions that during any one (1) fiscal year, exceed the lesser of twenty-five thousand dollars ($25,000) or five percent (5%) of the total operating expenses of the provider, or health facility, or health service. The list of names and addresses shall be made available by the cabinet for public inspection during regular business hours and shall be updated annually.

(2) Each owner of or direct financial investor in any health facility or health service which dispenses or supplies drugs, medicines, medical devices, or durable medical equipment to a patient shall annually file with the Cabinet for ***Health Services***~~[Human Resources]~~ the names and addresses of any immediate family member who is authorized under state law to prescribe drugs or medicines or medical devices or equipment.

Section 232. KRS 205.8481 is amended to read as follows:

No staff of the Office of the Attorney General shall, in private practice of law, serve as legal counsel to or represent any provider, as defined in KRS 205.8451. Designated staff of the Office of the Attorney General shall work in cooperation with the Cabinet for ***Health Services***~~[Human Resources]~~ in any initiation of disciplinary proceedings against a health care provider as defined in KRS 205.8451 and as may be authorized or required under KRS 205.8451 to 205.8483 for violations of KRS 205.8451 to 205.8483.

Section 233. KRS 205.8483 is amended to read as follows:

(1) The Office of the Inspector General in the Cabinet for ***Health Services***~~[Human Resources]~~ shall establish, maintain, and publicize a twenty-four (24) hour toll-free hotline for the purpose of receiving reports of alleged fraud and abuse by medical assistance program recipients and participating providers.

(2) The Office of the Inspector General in the Cabinet for ***Health Services***~~[Human Resources]~~ shall prepare a written description of the reported information and immediately make a written referral to:

(a) The state Medicaid Fraud Control Unit and to the Office of the Attorney General of all reports of alleged fraud and abuse by providers or recipients participating in the medical assistance program; and

(b) Other agencies and licensure boards of all reports relevant to their jurisdiction.

(3) The Office of the Inspector General in the Cabinet for ***Health Services***~~[Human Resources]~~, jointly with the state Medicaid Fraud Control Unit and the Office of the Attorney General, shall prepare a Medicaid fraud and abuse report, for the prior fiscal year, categorized by types of fraud and abuse and by recipient and provider group. This report shall be submitted no later than July 1 of each year to the Legislative Research Commission, the Interim Joint Committee on Appropriations and Revenue, and the Interim Joint Committee on Health and Welfare and shall identify:

(a) The number and type of reports received in the Office of the Inspector General in the Cabinet for ***Health***

Services[~~Human Resources~~], from the Medicaid fraud and abuse hotline categorized by recipient and provider groups;

(b) The number and type of alleged Medicaid fraud and abuse reports which were discovered by, received by, or referred to the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Office of the Inspector General and the Department for Medicaid Services; the number and type of reports which were opened for investigation by the Office of the Attorney General, the state Medicaid Fraud Control Unit, the Department for Medicaid Services, or the Office of the Inspector General and their disposition including:

1. Administrative actions taken;
2. Criminal penalties and civil payments received;
3. The amount of state and federal funds involved in the alleged fraud and abuse;
4. The cost of administering the hotline; and
5. Recommendations for legislative action to prevent, detect, and prosecute medical assistance abuse and fraud in the Commonwealth.

Section 234. KRS 205.900 is amended to read as follows:

As used in KRS 205.905 to 205.920:

(1) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.

(3) "Personal care assistance services" means services which are required by an adult with a severe physical disability to achieve greater physical independence and which include, but are not limited to:

(a) Routine bodily functions, such as bowel or bladder care;
(b) Dressing;
(c) Housecleaning and laundry;
(d) Preparation and consumption of food;
(e) Moving in and out of bed;
(f) Routine bathing;
(g) Ambulation; and
(h) Any other similar activity of daily living.

(4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically disabled adults to enable them to live as independently as possible and a majority of whose governing board are consumers of these services. If no qualified agency or organization exists, an agency or organization may become a qualified provider when consumers of personal care assistance services are a majority of its advisory council.

(5) "Secretary" means the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~].

(6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent or temporary, recurring functional loss of two (2) or more limbs.

Section 235. KRS 205.935 is amended to read as follows:

As used in KRS 205.940:

(1) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~];

(2) "Representative payee" means a person appointed by the Social Security Administration, Veterans Administration, or other nonprofit social service agency to provide financial management services to persons receiving Social Security Administration, Veterans Administration, or other government benefits, who are incapable of making or executing responsible financial decisions.

Section 236. KRS 205.940 is amended to read as follows:

(1) A representative payee fund shall be created for the purpose of providing grants to public or private organizations who provide representative payee services. The fund shall consist of moneys appropriated by the General Assembly. These moneys may also be supplemented by funds obtained from other sources for the fund as provided in this section.

(2) The fund shall be administered by the Cabinet for ***Families and Children***[~~Human Resources~~].

(3) Application for moneys from the fund may be made to the cabinet, on forms prescribed by administrative regulation. The awarding of grants shall be based upon the availability of funds. Grants shall be given to nonprofit organizations or agencies providing representative payee services to more than ten (10) persons who are mentally impaired, homeless or at risk of being homeless, or substance abusers in area development districts created pursuant to KRS 147A.050. The cabinet shall endeavor to fund an applicant where an eligible applicant exists. Health care facilities or other institutions, who serve as representative payees for persons residing therein, shall not be eligible to receive funds under this section.

(4) In determining the amount of each grant, the cabinet shall consider the number of persons receiving representative payee services from an applicant, the amount necessary to reimburse the applicant for all or a portion of the administrative costs incurred in providing representative payee services, and any fee charged by an applicant for the provision of representative payee services.

(5) The cabinet shall require applicants receiving funds pursuant to this section to be bonded, and to file an annual report with the cabinet providing an accounting of all funds expended on behalf of persons for whom representative payee services are provided. The cabinet shall promulgate administrative regulations providing for the termination of a grant if it determines a representative payee is not serving in the best interests of a client. If a grant is terminated, the cabinet shall report the termination to the agency who appointed the representative payee and recommend the appointment of a new representative payee. If financial exploitation is indicated, the termination shall also be reported to the Department for Social Services for investigation pursuant to KRS Chapter 209.

(6) The cabinet may provide training for persons serving as representative payees and may provide technical assistance to applicants awarded a grant.

(7) The cabinet may apply for any grants that may be used to supplement the representative payee fund, and may accept gifts or donations to the fund.

Section 237. KRS 207.200 is amended to read as follows:

(1) The Kentucky Department of Workplace Standards is authorized to enforce the employment provisions of KRS 207.130 to 207.240 in conjunction with the State Attorney General's office and the state and local courts.

(2) Any individual with a disability requesting the intervention of the Kentucky Department of Workplace Standards under this section shall, within one hundred and eighty (180) days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the disability or disabilities which affect him. This statement may be used by the commissioner of workplace standards or his representative to determine if the individual does, or does not, have a "physical disability" as defined in KRS 207.130(2). If the commissioner of workplace standards or his representative determines that the aggrieved individual does have a disability which falls under the definition in KRS 207.130(2), the Department of Workplace Standards shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.

(3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the commissioner of workplace standards, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department of Workplace Standards to continue its involvement with the case, he shall be required to submit to the commissioner of workplace standards, within thirty (30) days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving individuals with disabilities:

(a) Specifying and describing the disability or disabilities affecting the individual; and

(b) Indicating any specific type of employment for which such disability should be considered a bona fide or necessary reason for limitation or exclusion.

(4) (a) The state agencies which may be consulted under subsection (3) of this section may include, but are not limited to, the following:

1. Department of Education, Office of Vocational Rehabilitation Services;
2. Cabinet for ***Health Services***~~[Human Resources]~~, Department for ***Public*** Health~~[Services]~~;
3. Cabinet for ***Families and Children***~~[Human Resources]~~, Division of Disability Determination.

(b) The commissioner of workplace standards, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;

(c) The agencies designated in this subsection, and any other state agency which serves individuals with disabilities and which the commissioner of workplace standards deems proper, shall cooperate to the fullest with the Department of Workplace Standards in issuing a statement of disability and limitations as specified in subsection (3) of this section within twenty (20) days of the date the individual with a disability presents himself before such agency for examination.

(5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace standards, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;

(b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;

(c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department of Workplace Standards an application for reconsideration of the determination. Upon such application, the commissioner of workplace standards or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;

(d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization, or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization, or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

Section 238. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;

(2) "Cabinet" means the Cabinet for ***Families and Children***~~[Human Resources]~~;

(3) "Department" means the Department for Social Services of the Cabinet for ***Families and Children***~~[Human Resources]~~;

(4) "Adult" means a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services;

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;

(7) "Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse;

(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(11) "Emergency protective services" are protective services furnished an adult in an emergency;

(12) "Protective placement" means the transfer of an adult from his present living arrangement to another; and

(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county.

Section 239. KRS 209.160 is amended to read as follows:

There is hereby created a trust and agency account in the State Treasury to be known as the spouse abuse shelter fund. Each county clerk shall remit to the fund, by the tenth of the month, ten dollars ($10) from each twenty-four dollars ($24) collected during the previous month from the issuance of marriage licenses. The fund shall be administered by the Revenue Cabinet. The Cabinet for ***Families and Children***~~[Human Resources]~~ shall use the funds for the purpose of providing protective shelter services for spouse abuse victims.

Section 240. KRS 209.420 is amended to read as follows:

(1) There is established within the Cabinet for ***Families and Children***~~[Human Resources]~~ a statewide Senior and Physically Disabled Adult Discount Program for the purpose of making retail goods and services available at reduced rates to the

Commonwealth's senior citizens.

(2) Program participation shall be voluntary and free. No fees, dues or other charges shall be assessed by the cabinet nor required of the merchants or senior or physically disabled adult citizens who choose to participate. The cabinet shall invite retail merchants to participate in the program by extending discounts on their merchandise or services to physically disabled adults and citizens sixty (60) years of age and older. The conditions and rate of the discounts shall be determined by the participating businesses. Persons sixty (60) years of age and physically disabled adults shall be eligible to participate in the program by presenting valid proof of age or a statement from a licensed physician that the person is physically disabled to participating businesses.

(3) The secretary of the cabinet shall make such regulations as necessary to provide program identification for participating merchants and senior citizens lacking proof of age, informational brochures, directories of participating businesses, and other printed materials essential to the implementation and promotion of the program.

Section 241. KRS 209.500 is amended to read as follows:

The Kentucky Senior Games Program is hereby created within the ***Office of Aging***[~~Department for Social~~] Services of the Cabinet for ***Families and Children***[~~Human Resources~~]. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.

Section 242. KRS 210.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

(4) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~].

(5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person cannot hear and understand speech clearly through the ear alone, irrespective of the use of any hearing aid device.

(6) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 243. KRS 210.010 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] shall have authority to prescribe rules and regulations for the administration of the cabinet and of the institutions under the control of the cabinet, including power to regulate the payment of money to patients in mental institutions for work performed.

Section 244. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;
2. The A.G. Bell Association;
3. The Kentucky School for the Deaf Alumni Association; and
4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

(b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for ***Health Services***[~~Human Resources~~], Department for Mental Health and Mental Retardation Services;

2. The Workforce Development Cabinet, Department of Vocational Rehabilitation;
3. The Cabinet for ***Families and Children, Office of***~~[Human Resources, Department for Social Services, Division for]~~ Aging Services;
4. The Education, Arts, and Humanities Cabinet, Commission on the Deaf and Hard of Hearing;
5. The Kentucky Registry of Interpreters for the Deaf; and
6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsections (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsections (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsections (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsections (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
2. Reports the number of deaf or hard-of-hearing persons served;
3. Identifies additional service needs for the deaf and hard-of-hearing; and
4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 245. KRS 210.040 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall:

(1) Exercise all functions of the state in relation to the administration and operation of the state institutions for the care and treatment of persons with mental illness;

(2) Establish or acquire, in accordance with the provisions of KRS 56.440 to 56.550, other or additional facilities for psychiatric care and treatment of persons who are or may become state charges;

(3) Cooperate with other state agencies for the development of a statewide mental health program looking toward the prevention of mental illness and the post-institutional care of persons released from public or private mental hospitals;

(4) Provide for the custody, maintenance, care and medical and psychiatric treatment of the patients of the institutions operated by the cabinet;

(5) Provide psychiatric consultation for the state penal and correctional institutions, and for the state institutions operated for children or for persons with mental retardation;

(6) Administer and supervise programs for the noninstitutional care of persons with mental illness;

(7) Administer and supervise programs for the care of persons with chronic mental illness, including but not limited to provision of the following:

(a) Identification of persons with chronic mental illness residing in the area to be served;

(b) Assistance to persons with chronic mental illness in gaining access to essential mental health services, medical and rehabilitation services, employment, housing and other support services designed to enable persons with chronic mental illness to function outside inpatient institutions to the maximum extent of their capabilities;

(c) Establishment of community-based transitional living facilities with twenty-four (24) hour supervision and community-based cooperative facilities with part-time supervision; provided that, no more than either one (1) transitional facility or one (1) cooperative facility may be established in a county containing a city of the first class with any funds available to the cabinet;

(d) Assurance of the availability of a case manager for each person with chronic mental illness to determine what services are needed and to be responsible for their provision; and

(e) Coordination of the provision of mental health and related support services with the provision of other support services to persons with chronic mental illness;

(8) Supervise private mental hospitals receiving patients committed by order of a court.

Section 246. KRS 210.042 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] may provide, to the extent funds are available under KRS 210.040 and under conditions and standards established by the cabinet, funds to any nonprofit agency recognized as operating in the field of mental health and whose objectives are to carry out the purposes of KRS 210.040.

(2) The funds, if provided, may be matched on a fifty-fifty (50-50) basis by the nonprofit agency receiving such funds. The cabinet shall determine whether the match may be in money or in kind services or other match.

Section 247. KRS 210.045 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall:

(1) Maintain, operate, and assume program responsibility for all state institutions and facilities for mental retardation;

(2) Provide rehabilitation services for mentally-retarded persons through educational and training programs;

(3) Provide medical and allied services to mentally-retarded persons and their families;

(4) Encourage and assist communities to develop programs and facilities in the field of mental retardation;

(5) Sponsor or carry out research, or both, in the field of mental retardation; and

(6) Assist other governmental and private agencies in the development of programs and services for mentally-retarded persons and their families and for the prevention of mental retardation, and coordinate programs and services so developed.

Section 248. KRS 210.055 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] may:

(1) Promulgate reasonable rules and regulations for the purposes of carrying out the provisions of KRS 210.045, including regulations establishing the minimum and maximum ages within which mentally retarded persons are eligible:

(a) To participate in programs operated by the cabinet;

(b) To become patients in institutions operated by the cabinet;

(2) Participate in the education and training of professional and other persons in the field of mental retardation, and may encourage and assist private and public agencies and institutions to participate in similar education and training;

(3) Do all other things reasonably necessary to carry out the provisions of KRS 210.045.

Section 249. KRS 210.057 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall conduct research into all aspects of controlled substances as defined in KRS 218A.010 in coordination with the Kentucky Board of Pharmacy.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of persons who are subjects of such research. Persons who obtain this authorization may not be compelled in any state civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] may authorize the possession and distribution of controlled dangerous substances by persons engaged in research. Persons who obtain this authorization shall be exempt from state prosecution for possession and distribution of dangerous substances to the extent authorized by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 250. KRS 210.080 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] may transfer any employee between the institutions operated by the cabinet, or to the headquarters of the cabinet. Necessary moving expenses involved in such transfers shall be paid by the cabinet.

Section 251. KRS 210.090 is amended to read as follows:

Neither the commissioner of the Department for Mental Health and Mental Retardation of the Cabinet for ***Health Services***[~~Human Resources~~] nor his deputy nor any superintendent or director of an institution of the Department for Mental Health and Mental Retardation shall be permitted to engage in any partisan political activity.

Section 252. KRS 210.100 is amended to read as follows:

No officer or employee of any institution operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be required to give personal attendance as a witness in any civil suit out of the county in which the institution is located, but his deposition shall be taken in lieu thereof.

Section 253. KRS 210.110 is amended to read as follows:

(1) No officer, employee, or agent of the Cabinet for ***Health Services***[~~Human Resources~~], a regional community mental health-mental retardation board or a nonprofit corporation administering a regional community mental health-mental retardation program shall sell anything to any institution, facility, or organization under the control of the cabinet nor participate in selection, or in the award or administration of a contract supported by state or federal funds if a conflict of interest, real or apparent, would be involved.

(2) Such a conflict of interest would arise when:

(a) The employee, officer, or agent;

(b) Any member of his immediate family;

(c) His or her partner; or

(d) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

Section 254. KRS 210.120 is amended to read as follows:

No physician or doctor employed by the Cabinet for ***Health Services***[~~Human Resources~~] shall receive or accept any compensation for personal services other than that paid by the state, except that the secretary, and other physicians and doctors when so authorized by the secretary, may be employed in, and receive compensation from outside activities such as teaching, research, or community service work, to an extent that will not interfere with the performance of the duties of their office or employment.

Section 255. KRS 210.130 is amended to read as follows:

Religious instruction and ministration for patients of the institutions operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be provided.

Section 256. KRS 210.170 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] may accept money from the federal government, or any of its agencies, under any grant agreement entered into by this state or by the cabinet. Such money may be expended for capital outlay in accordance with the provisions of KRS 56.440 to 56.550. The cabinet also may accept grants, gifts, bequests or devises from public or private sources, and use the same for any purpose within the scope of the functions of the cabinet, consistent with the terms of the grant, gift, bequest or devise.

Section 257. KRS 210.180 is amended to read as follows:

There shall be established and maintained, at each of the institutions operated by the Cabinet for ***Health Services***[~~Human Resources~~], a canteen which shall be incorporated and self-supporting. The directors of each canteen shall be appointed by the secretary. All profits from each canteen shall be used exclusively for the benefit of the patients of the institution.

Section 258. KRS 210.190 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may utilize the services of the workers of the other cabinets, when authorized by the agency heads of these cabinets. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may authorize payment of the actual traveling expenses of the workers so utilized.

Section 259. KRS 210.220 is amended to read as follows:

No patient of any of the institutions operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be denied the right to correspond with an attorney or with the secretary.

Section 260. KRS 210.230 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may prescribe appropriate records to be maintained covering the operations of the cabinet and of the institutions operated by it, and covering involuntary hospitalization procedures. Any record forms applicable to involuntary hospitalization procedures shall be furnished to each court having jurisdiction to order hospitalization of mentally ill or retarded persons, and the records contemplated by such forms shall thereafter be made by the hospitalizing courts.

Section 261. KRS 210.235 is amended to read as follows:

All applications and requests for admission and release, and all certifications, records, and reports of the Cabinet for ***Health Services***[~~Human Resources~~] which directly or indirectly identify a patient or former patient or a person whose hospitalization has been sought, shall be kept confidential and shall not be disclosed by any person, except insofar as:

(1) The person identified or his guardian, if any, shall consent; or

(2) Disclosure may be necessary to carry out the provisions of the Kentucky Revised Statutes, and the rules and regulations of cabinets and agencies of the Commonwealth of Kentucky; or

(3) Disclosure may be necessary to comply with the official inquiries of the departments and agencies of the United States government; or

(4) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and failure to make such disclosure would be contrary to the public interest. Nothing in this section shall preclude the disclosure, upon proper inquiry of the family or friends of a patient, of information as to the medical condition of the patient.

Section 262. KRS 210.240 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is authorized to establish training schools within the cabinet or within any of the institutions operated by the cabinet, for the training of necessary personnel for the institutions, or may arrange for the training of employees or prospective employees in any public or private school or institution having available facilities for that purpose. Funds of the cabinet may be used to pay salaries to employees, or to pay tuition and subsistence for employees or prospective employees, while receiving such training. Any employee or prospective employee who is paid a salary, or for whom tuition and subsistence are furnished, while receiving such training, shall be required to enter into a contract, prior to receiving such training, that unless he continues in the employ of the cabinet for at least a period equivalent to the training period, immediately following the completion of such training, he will reimburse to the cabinet the sum paid to or for him by the cabinet during the period of[~~ his~~] training.

Section 263. KRS 210.267 is amended to read as follows:

The residents of state mental hospitals may manufacture and produce for their own use, or for sale, such articles, furniture, clothing, tools, products, and other supplies and engage in such labor or work of construction as may be approved by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 264. KRS 210.270 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is authorized to designate those private homes, private nursing homes, and private institutions that he deems, after a thorough investigation of the personal and financial qualifications of the owners and tenants, the facilities and management, and the desirability of the location of the homes, suitable for the placement of patients, including individuals with mental illness or mental retardation of all ages, outside of the state mental hospitals. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may promulgate, by administrative regulation, standards for the selection and operation of private homes, private nursing homes, and private institutions designated for the placement of patients. No home of an officer or employee of the Cabinet for ***Health Services***[~~Human Resources~~] or of a member of his immediate family shall be designated for the placement of patients.

(2) Whenever the staff of a state mental hospital has determined that a patient who is not being held on an order arising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital shall so certify and authorize the patient to be transferred to a designated private home or private nursing home for care and custody for a length of time that the hospital deems advisable.

(3) No patient with mental retardation lodged in a state institution may have his level of care reclassified nor may he be transferred to a private nursing home or other private institution without first providing ten (10) days' notice by certified mail, return receipt requested, to the patient's parents or guardian that a reclassification of the patient's level of care or a transfer in the place of residence is being considered.

(4) Any parent or guardian of any patient with mental retardation lodged in a state institution may participate in any evaluation procedure which may result in a reclassification of the patient's level of care or in a transfer in the place of residence of the patient. Participation may include the submission by the parents or guardian of medical evidence or any other evidence deemed relevant by the parents or guardian to the possible reclassification or transfer of the patient.

(5) If the decision to reclassify or transfer any patient with mental retardation is adverse to the best interests of the patient as expressed by the parents or guardian, they shall be given notice by certified mail, return receipt requested, that they are entitled to a thirty (30) day period from the receipt of such notice to file with the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] a notice of appeal and application for a hearing. Upon receipt of an application for a hearing, a hearing shall be conducted in accordance with KRS Chapter 13B.

(6) The appeal shall be heard by a three (3) member panel composed of a designated representative of the Cabinet for ***Health Services***[~~Human Resources~~], a designated representative of the state institution where the patient with mental retardation is presently lodged, and a designated neutral representative appointed by the county judge/executive wherein the institution in question is located. The secretary may appoint a hearing officer to preside over the conduct of the hearing.

(7) Decisions made by the panel may be appealed to the Circuit Court of the county in which the state institution in question is located, to the Circuit Court of the county in which either of the parents or guardians or committee of the patient in question is domiciled at the time of the decision, or to Franklin Circuit Court in accordance with KRS Chapter 13B.

(8) All parents or guardians or committee of a patient with mental retardation lodged in a state institution shall be fully apprised by the Cabinet for ***Health Services***[~~Human Resources~~] of their rights and duties under the provisions of subsections (3), (4), (5), (6), and (7) of this section.

(9) The provisions of KRS 210.700 to 210.760 shall apply to patients transferred to designated private homes and private

nursing homes as though the patients were residing in a state mental hospital.

Section 265. KRS 210.271 is amended to read as follows:

(1) No patient in an institution for the mentally ill or the mentally retarded operated by the Cabinet for ***Health Services***[~~Human Resources~~] shall be discharged to a boarding home as defined in KRS 216B.300 unless the boarding home is registered pursuant to KRS 216B.305.

(2) The cabinet shall conduct a quarterly follow-up visit, using cabinet personnel or through contract with the Regional Community Mental Health Centers, of all patients of state mental health or mental retardation facilities that are discharged to boarding homes. Any resident found to have needs that cannot be met by the boarding home shall be referred to the Department for Social Services for appropriate placement. Any boarding home suspected of operating as an unlicensed personal care facility or housing residents with needs that cannot be met by the boarding home shall be reported to the Division of Licensing and Regulation for investigation.

Section 266. KRS 210.285 is amended to read as follows:

In addition to the specific authority granted by other provisions of KRS Chapters 202A, 202B, and 210, the Cabinet for ***Health Services***[~~Human Resources~~] shall have authority to prescribe the form of applications, records, reports, and medical certificates provided for under KRS Chapters 202A, 202B, and 210 and the information required to be contained therein; to require reports from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any patient; to visit hospitals regularly to review the hospitalization procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any persons on behalf of any patients or by any patients themselves; and to adopt such rules and regulations not inconsistent with the provisions of KRS Chapters 202A, 202B, and 210 as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

Section 267. KRS 210.290 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] may be appointed and act as executor, administrator, guardian, limited guardian, conservator**,** or limited conservator as provided in this section. In this capacity the cabinet may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the cabinet.

(2) Whenever a resident of the state is adjudged partially disabled or disabled and no other suitable person or entity is available and willing to act as limited guardian, guardian, limited conservator, or conservator, the cabinet, acting through its designated officer, may apply to the District Court of the county in which the adjudication is made for appointment as limited guardian, guardian, limited conservator, or conservator for such partially disabled or disabled person.

(3) Upon the death of a person for whom the cabinet has been appointed guardian or conservator, or upon the death of a person who has been committed to the cabinet leaving an estate and having no relatives at the time residing within the state, the cabinet may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The cabinet may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The cabinet shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs**,** and other expenses incurred in the administration of estates. Claims of the cabinet against the estates shall be considered in the same manner as any other claim.

(6) An officer designated by the secretary may act as legal counsel for any patient in a state mental hospital or institution against whom a suit of any nature has been filed, without being appointed as guardian, limited guardian, conservator**,** or limited conservator.

(7) Patients hospitalized pursuant to KRS Chapters 202A and 202B who are not adjudged disabled or partially disabled may authorize the Cabinet for ***Families and Children***[~~Human Resources~~] to handle personal funds received by them at the hospital in the same manner as prescribed in subsections (4) and (5) of this section.

Section 268. KRS 210.300 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall prescribe from time to time, by regulations, for the designation of hospital districts, for the purpose of determining to which of the state institutions for the mentally ill the persons admitted from each county shall initially be sent.

Section 269. KRS 210.360 is amended to read as follows:

(1) When a person who has been twice previously convicted of a felony is indicted by a grand jury as a persistent felony offender, the circuit clerk of the court in which he is indicted shall give notice of the indictment to the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] within seven (7) days after the indictment is returned by the grand jury. The secretary shall cause such person to be examined by a psychiatrist or licensed clinical psychologist already in the employ of the cabinet, to determine his mental condition and the existence of any mental illness or retardation which

would affect his criminal responsibility. This examination shall be made without expense other than the amount to cover necessary travel, as provided by law for any other employee of the state traveling on official business.

(2) The psychiatrist or licensed clinical psychologist making the examination shall submit a written report of his findings to the judge of the court having jurisdiction, who shall make the report available to the prosecuting attorney and the attorney for the defendant.

(3) The secretary may decline to cause such examination to be made if the number of psychiatrists or licensed clinical psychologists on duty in the cabinet is insufficient to spare one from his regular official duties, in which event the secretary shall notify the clerk of the Circuit Court to that effect within three (3) days.

Section 270. KRS 210.370 is amended to read as follows:

Any combination of cities or counties of over 50,000 population, and upon the consent of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], any combination of cities or counties with less than 50,000 population, may establish a regional community mental health and mental retardation services program and staff same with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a community mental health-mental retardation board established pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.

Section 271. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], each community mental health-mental retardation board shall:

(1) Review and evaluate mental health and mental retardation services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources, and promote public support for municipal and county appropriations;

(3) Promote, arrange and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;

(4) Adopt and implement policies to stimulate effective community relations;

(5) Be responsible for the development and approval of an annual plan and budget;

(6) Act as the administrative authority of the community mental health and mental retardation program; and

(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 272. KRS 210.405 is amended to read as follows:

(1) Any regional community mental health-mental retardation board established pursuant to KRS 210.380 and recognized by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may be appointed and act as executor, administrator, guardian, limited guardian, conservator, or limited conservator, as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the board.

(2) Whenever a person who has been adjudged mentally disabled and requires mental health services has no guardian or conservator, the board, acting through its designated officer, may apply to the District Court of the county in which the adjudication was made for its appointment as guardian or conservator for such mentally-disabled person. The board may also apply to be substituted as guardian or conservator for a mentally-disabled person whose guardian or conservator is the Cabinet for ***Families and Children***[~~Human Resources~~] and who has been discharged or whose discharge is imminent from a Cabinet for ***Health Services***[~~Human Resources~~] facility.

(3) Upon the death of a person for whom the board has been appointed guardian or conservator leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 273. KRS 210.410 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] is hereby authorized to make state grants and other

fund allocations from the Cabinet for ***Health Services***~~[Human Resources]~~ to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and mental retardation programs which shall provide at least the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization or psycho-social rehabilitation services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d)***,*** and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e)***,*** and (f) shall be available to the mentally retarded. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

Section 274. KRS 210.420 is amended to read as follows:

(1) Except as hereinafter provided, grants from state general funds for any program shall not exceed fifty percent (50%) of the total expenditures for:

(a) Salaries;

(b) Contract facilities and services;

(c) Operation, maintenance, and service costs;

(d) Per diem and travel expenses for members of the community mental health-mental retardation boards***;***~~[.]~~ and

(e) Other expenditures specifically approved by the secretary for ***health services***~~[human resources]~~.

No grants from state general funds shall be made for capital expenditures. Grants from state general funds may be made for expenditures for mental health and mental retardation services whether provided by operation of a local facility or through contract with other public or private agencies.

(2) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall distribute to community mental health-mental retardation boards those general funds appropriated to the cabinet for the operation of regional community mental health-mental retardation programs. This distribution shall be by a formula which includes provisions for:

(a) Per capita allocations;

(b) Incentive allocations which require local matching funds based on the per capita wealth of the area served; and

(c) Discretionary allocations to be available to the secretary to maintain essential services pursuant to KRS 210.410.

The formula for allocation of community mental health-mental retardation program general funds shall be prescribed by administrative regulations.

Section 275. KRS 210.430 is amended to read as follows:

Any community mental health-mental retardation board or nonprofit corporation administering a mental health and mental retardation services program may apply for the assistance provided by KRS 210.370 to 210.460 by submitting annually to the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ its plan, budget, and membership of the board for the next fiscal year. No program shall be eligible for a state grant and other fund allocations from the Cabinet for ***Health Services***~~[Human Resources]~~ hereunder unless its plan and budget have been approved by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, and no program shall be eligible for a state grant and other fund allocations from the Cabinet for ***Health Services***~~[Human Resources]~~ hereunder unless the board composition is reasonably representative of those groups enumerated in KRS 210.380.

Section 276. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall allocate available funds to the mental health-mental retardation boards or nonprofit organizations for disbursement during the fiscal year in accordance with approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets, and expenditures of the various programs; and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw any funds that are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof, which is not being operated and administered in accordance with its approved plan and budget, and the policies and administrative regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480.

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds

have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and administrative regulations of the cabinet, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonprofit organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including, but not limited to, their financial record keeping, their personnel management operations, and their financial and program reporting; and

(b) Make personnel changes deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ thirty (30) days prior to the anticipated action by the secretary. The notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for the anticipated action. Following the notification, the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Request an administrative hearing before a hearing officer appointed by the secretary to show cause why the action should not stand. The application shall be made within seven (7) days of the receipt of the letter from the secretary, and the hearing shall be conducted in accordance with KRS Chapter 13B.

Section 277. KRS 210.450 is amended to read as follows:

In addition to the powers and duties already conferred upon him by the law, the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall:

(1) Promulgate policies and regulations governing eligibility of community mental health and mental retardation programs to receive state grants and other fund allocations from the Cabinet for ***Health Services***~~[Human Resources]~~, prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment of fee schedules which shall be based upon ability to pay, regulating fees for diagnostic services, which services may be provided for anyone without regard to his financial status, when referred by the courts, schools, or health and welfare agencies whether public or private, governing financial record keeping, prescribing standards for personnel management operations, providing for financial and program reporting requirements, and such other policies and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health-mental retardation boards and program administrators;

(3) Provide consultative service, by mental health and mental retardation professionals qualified by education and training, to communities to assist in ascertaining local needs and in planning and establishing community mental health and mental retardation programs;

(4) Employ necessary and qualified personnel to implement KRS 210.370 to 210.460; and

(5) Review annually the community mental health-mental retardation boards' personnel policies, procedures and personnel compensation plans and disapprove if not consistent with accepted standards of personnel and salary administration prescribed by the cabinet.

Section 278. KRS 210.470 is amended to read as follows:

(1) It is the intent of this section to create a mental health and mental retardation taxing district by operation of law in each county coming under the provisions of KRS 210.370 to 210.460, in order to implement KRS 210.460.

(2) In all counties which have participated in the establishment of a regional community mental health and mental retardation services program under KRS 210.380, a mental health and mental retardation taxing district is hereby declared to be created.

(3) The members of the community mental health-mental retardation board recognized by the secretary for ***health services***~~[human resources]~~ pursuant to KRS 210.380 shall, by virtue of their office, constitute and be the governing board of the mental health and mental retardation taxing district and shall perform the duties attendant thereto in addition to

their duties as members of the community mental health-mental retardation board. Officers of the community mental health-mental retardation board shall be the officers of the mental health and mental retardation taxing district.

Section 279. KRS 210.480 is amended to read as follows:

(1) If, after the establishment of the mental health and mental retardation taxing district as provided for in this section, KRS 210.460, and KRS 210.470, the tax levying authorities in member areas of the district, in the opinion of the community mental health-mental retardation board, do not appropriate an amount sufficient to meet the needs of the mental health and mental retardation services program and clinic, as established pursuant to KRS 210.370, the community mental health-mental retardation board, acting as the governing body of the taxing district shall, with the approval of the Cabinet for ***Health Services***[~~Human Resources~~], request the fiscal courts in each of the member areas which have not contributed a sufficient proportionate share of the cost of the program, to impose a special ad valorem mental health and mental retardation tax in such amount that it deems sufficient, but not in excess of four cents ($0.04) per one hundred dollars ($100) of full assessed valuation. The fiscal court may, upon receipt of a duly certified copy of said request, include in the next ad valorem tax levy said special mental health and mental retardation tax imposed by the mental health-mental retardation board which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special mental health and mental retardation tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the community mental health-mental retardation board to be used for the maintenance and operation of the mental health and mental retardation services program and clinic as provided in KRS 210.460. No appropriation for a mental health and mental retardation services program and clinic established under KRS 210.370 shall be reduced or eliminated on the grounds that a special tax has been levied where the community mental health-mental retardation board requested the amount levied as a necessary supplement to that appropriation. Taxing districts organized pursuant to KRS 210.470 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Acts 1965 (1st Ex. Sess.), ch. 2.

(2) Nothing contained ***in this section***[~~herein~~] shall be construed as precluding any city or county from appropriating or allocating funds in any other manner for the support of the regional mental health and mental retardation services program and clinic, pursuant to KRS 210.460, or any other statutory provision.

Section 280. KRS 210.710 is amended to read as follows:

(1) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~].

(2) "Facility" means a hospital or other institution operated or utilized by the cabinet for the mentally ill, mentally retarded or respiratory disease patients.

(3) "Homestead" means a place where a family makes its home including the land, house and furnishings, outbuildings, vehicles and tools of the trade formerly occupied by the patient which is exempted by KRS 210.710 to 210.760 from liability to meet patient charges for services rendered in a facility.

(4) "Means test" means a uniform method adopted by the secretary for determining the ability to pay of the patient or person responsible for the patient for board, maintenance and treatment at a facility operated or utilized by the cabinet.

(5) "Person responsible for the patient" includes parents, spouses, guardians and committees within the scope of their fiduciary duties.

(6) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 281. KRS 211.015 is amended to read as follows:

(1) As used in KRS 211.005 to 211.380, unless the context requires otherwise:
    (a) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];
    (b) "Farmstead" means a farm dwelling, together with other farm buildings and structures incident to the operation and maintenance of the farm, situated on ten (10) contiguous acres or more of land outside the corporate limits of a municipality:
        1. Used for the production of livestock, livestock products, poultry, poultry products, dairy, dairy products, or horticulture products or for the growing of crops such as, but not limited to, tobacco, corn, soybeans, and wheat; or
        2. Where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
    (c) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~]; and
    (d) "Private water supply" means a residential water supply located on private property under the control of a person holding a possessory interest in the property, the use of which is limited to family members.

(2) As used in KRS 200.560 and 200.550, unless the context otherwise requires:
    (a) "Department" means Department for ***Public*** Health[~~ Services~~];
    (b) "Commissioner" means the commissioner of the Department for ***Public*** Health [~~Services~~];

(c) "Committee" means the Hemophilia Advisory Committee; and

(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

Section 282. KRS 211.027 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate reasonable rules and regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS 311.710 to 311.810, which shall be submitted to the Legislative Research Commission in a manner prescribed in KRS Chapter 13A; the Legislative Research Commission shall refer said rules and regulations to the Interim Committee on Health and Welfare for the purpose of approval or disapproval.

Section 283. KRS 211.130 is amended to read as follows:

As used in KRS 211.130 to 211.160, unless the context requires otherwise:

(1) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Secretary" shall mean the secretary for ***health services***[~~human resources~~];

(3) "An individual with a severe physical disability" shall mean a person who has a severe physical disability as a result of cerebral palsy, poliomyelitis, muscular dystrophy, or spina bifida;

(4) "Educable person" shall mean an individual with a severe physical disability, as defined above, who is determined by the cabinet to be capable of receiving and benefiting from the services and facilities provided by KRS 211.130 to 211.160;

(5) "Funds" shall mean all moneys received by the cabinet from all persons, corporations, associations, organizations, and state or federal government agencies, specifically designated to be used for furnishing facilities and services for educable persons; provided, however, that no moneys appropriated to the cabinet by the General Assembly of this Commonwealth shall be considered to have been appropriated for establishing, providing or maintaining services or facilities for educable persons, unless the act appropriating such moneys expressly so provides.

Section 284. KRS 211.160 is amended to read as follows:

(1) The secretary for ***health services***[~~human resources~~] may, from the funds available, employ, by contract or otherwise such medical, clinical, technical, and other personnel that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160, and fix and pay their compensation and necessary traveling expenses.

(2) The secretary for ***health services***[~~human resources~~] may, from the funds available, procure, by purchase or lease or otherwise, such property, equipment, services, facilities, and supplies that he deems necessary to effectuate the purposes of KRS 211.130 to 211.160.

(3) The secretary for ***health services***[~~human resources~~] is authorized to accept, on behalf of the Commonwealth of Kentucky, all gifts, donations, contributions, grants, devises, bequests, and conveyances of real and personal property for establishing, providing, and maintaining the services and facilities described in KRS 211.150, subject only to the condition that same shall be devoted to and used for said purposes. All funds received by the secretary for ***health services***[~~human resources~~] shall be deposited in the State Treasury and credited to a trust and agency fund account and expended only for purposes authorized by KRS 211.130 to 211.160.

(4) The secretary for ***health services***[~~human resources~~] may make and issue all necessary rules and regulations to carry out KRS 211.130 to 211.160; provided, however, that no educable person shall be eligible for any benefits hereunder unless he is, and has been continuously for at least twelve (12) months immediately preceding the date of his application therefor, an actual resident of this state.

(5) The secretary for ***health services***[~~human resources~~] may delegate to any division of the cabinet, or to any director thereof, any and all of his authority and duties hereunder.

(6) Upon request of the secretary for ***health services***[~~human resources~~], approved in writing by the Governor, any cabinet, agency, or commission of the Commonwealth shall furnish without cost to the cabinet such services, facilities, and assistance as are available and, in the judgment of the secretary for ***health services***[~~human resources~~] and the Governor, required, to effectuate the purposes of KRS 211.130 to 211.160 or its administration which is hereby vested in the cabinet.

Section 285. KRS 211.165 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall establish a loan repayment program to repay educational loans for primary health care professionals who agree to serve in federally-designated health professional shortage areas. The program shall:

(1) Apply for federal funds for the program under the Public Health Service Act (42 U.S.C. sec. 254g-1);

(2) Make payments of qualifying educational loans of health professionals agreeing to provide primary health services in federally-designated health professional shortage areas;

(3) Assign health professionals only to public and private nonprofit entities;

(4) Enter into contracts with participants with remedies for breach of contract by the health professional; and

(5) Make available nonfederal contributions towards contracts with individual health professionals in an amount not less than one dollar ($1) for each one dollar ($1) of federal funds provided. In meeting this matching fund requirement, the state shall provide fifty percent (50%) of the state's share from state funds, and the remaining fifty percent (50%) shall be provided from local governments or other community-based resources from the area in which the health professional will be serving.

Section 286. KRS 211.1751 is amended to read as follows:

As used in KRS 211.1751 to 211.1755:

(1) "Agency" means a local health department established pursuant to the provisions of KRS Chapter 212, excluding a health department in a county containing a city of the first-class, an urban-county health department, or an independent district health department.

(2) "Classification plan" means the system of classes and job descriptions, and the process for the installation and maintenance of the classification plan.

(3) "Compensation plan" means a series of salary ranges to which classes of positions are assigned so that classifications evaluated as approximately equal may be assigned to the same salary range.

(4) "Council" means the Local Health Department Employment Personnel Council created in KRS 211.1752.

(5) "Department" means the Department for ***Public*** Health[~~ Services~~] within the Cabinet for ***Health Services***[~~Human Resources~~].

Section 287. KRS 211.1752 is amended to read as follows:

(1) The Local Health Department Employment Personnel Council is hereby created. The council shall be composed of five (5) members appointed by the secretary for ***health services***[~~human resources~~].

(2) Members of the council shall serve for a term of three (3) years or until successors are appointed, except that for members of the initially appointed council, two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, and one (1) member shall be appointed for three (3) years. A member appointed to fill a vacancy occurring prior to the expiration of the term shall be appointed for the remainder of the term.

(3) The council shall elect a chairperson from its membership. Regular meetings of the council shall be held at least semiannually. Special meetings of the council may be held upon call of the chairperson or the department.

(4) The council shall be attached to the department for administrative purposes.

(5) The council shall:

(a) Advise the cabinet on administration of the local health department personnel program pursuant to KRS Chapter 212;

(b) Hear appeals from:

1. Applicants for positions for which examinations are being or have been conducted;

2. Eligible applicants on examination registers; and

3. Classified employees who have been dismissed, demoted, or suspended for cause;

(c) Hear appeals regarding discrimination in a personnel action involving an agency employee or an applicant for employment;

(d) Make an annual report to the department and agency; ***and***

(e) Consider and act upon matters that may be referred to the council by the department.

Section 288. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:

(a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control of the United

States Public Health Service. The cabinet shall require reporting of cases of human immunodeficiency virus infection by July 1, 1990, but shall be prohibited from requiring the reporting of or collection of names and addresses. However, a code may be used, so long as in and of itself, it would not identify the patient. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient.

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;

(f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; ***and***

(g) Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. sec. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

Section 289. KRS 211.184 is amended to read as follows:

(1) It shall be the duty of the cabinet to enforce the provisions of KRS 211.182, and for that purpose the investigators, inspectors, representatives, and agents of the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and the cabinet shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence.

(2) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] may institute, in his own name, proceedings to enjoin and restrain violations of KRS 211.182, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 290. KRS 211.190 is amended to read as follows:

The cabinet shall provide public health services including:

(1) Administrative, consultative, technical, professional, and other services needed to assist local health departments in the effective maintenance and operation of their departments;

(2) Administrative, investigative, and clerical services required by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], and may upon request provide these services to any other agency of this Commonwealth authorized to control the practice of any other healing art;

(3) Administration of grants, gifts, or contributions from the federal government, or from other sources, for the purpose of carrying out the provisions of Public Law No. 725 (79th Congress, 2nd Session, chapter 958), or any other acts for the same or similar purposes;

(4) Central registrations of births, deaths, and other vital records and the furnishing of copies thereof to the general public in the manner prescribed by law;

(5) Statistical services, including the compilation, analysis, and maintenance of statistics on matters related to public health,

and may provide these services to organizations and persons interested in public health;

(6) Education of the public concerning all matters relating to health, including the publication and dissemination of health information, and the stimulation of citizen support for the promotion and maintenance of high standards of public health throughout the Commonwealth;

(7) Survey and study of the needs of medical and hospital facilities in the interest of the health of the general public;

(8) Establishment, maintenance, and operation of public health laboratories and such branches thereof as may be needed;

(9) Establishment, maintenance, and operation of training facilities and schools for employees of the cabinet and of local health departments;

(10) Tabulating, duplicating, and other ancillary services as are necessary to the operation of the cabinet, including the keeping of adequate financial, personnel and other records; and

(11) Establishment, maintenance, monitoring, and enforcement of water fluoridation programs for the protection of dental health.

Section 291. KRS 211.200 is amended to read as follows:

Whenever, in the opinion of the secretary for ***health services***~~[human resources]~~, a public health emergency exists in any county, or whenever any county fails to establish, maintain, and operate a local health department therein meeting the standards prescribed by the cabinet, the cabinet may assign to said county such of its own personnel as may be designated by the secretary for human resources. Such personnel so assigned shall have the full power and authority of local health department employees in addition to their power and authority as representatives of the cabinet. Whenever such assignment results by reason of the lack of a local health department or of a local health department meeting the standards prescribed by the cabinet, any funds appropriated or allocated to the local health department by either the Commonwealth or the federal government may be used to reimburse the cabinet.

Section 292. KRS 211.215 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall operate a program for the decontamination of bird roosts.

(2) Prior to the decontamination of a bird roost, the cabinet shall, at a minimum, make the following determinations:

  (a) The bird roost has tested positive to the presence of histoplasma capsulatum;

  (b) The bird roost presents a potential health hazard;

  (c) The landowner has requested in writing to the cabinet that the cabinet have the land area associated with the bird roost decontaminated; and

  (d) That there are sufficient state funds to pay for the decontamination of the area, including any assistance which may be given by local governmental units, volunteer fire departments, or other organizations.

(3) If one (1) or more of the determinations made by the cabinet in subsection (2) of this section is made in the negative, the bird roost shall not be decontaminated by the cabinet.

(4) The cabinet shall ensure that the decontamination of a bird roost is conducted in a safe manner.

(5) The cabinet may secure the services of local governmental units, volunteer fire departments, or other organizations as long as they are qualified to conduct the decontamination in a safe manner.

(6) The cabinet may issue administrative regulations to implement this section.

Section 293. KRS 211.220 is amended to read as follows:

For the purposes of enforcing the public health laws of the Commonwealth, investigators, inspectors, officers, representatives, and agents of the cabinet may enter upon any premises when necessary for the purpose of making inspections and investigations, and may view evidence and interrogate persons, to the extent required in the performance of their duties and responsibilities. The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ may issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the cabinet, and such process shall extend to all parts of the Commonwealth. Service of process may be made by certified mail, return receipt requested or in the manner prescribed by the Rules of Civil Procedure. Nothing in this section shall be construed to authorize the cabinet to regulate the practice of any healing art where the licensure regulation and control of same has been conferred by statute upon some other agency of the state.

Section 294. KRS 211.230 is amended to read as follows:

In case of a failure on the part of any person, firm, or corporation to comply with any lawful order of the Cabinet for ***Health Services***~~[Human Resources]~~, or with process or in case of the refusal of any witness to testify concerning any matter on which he may be lawfully interrogated, the Circuit Court, or a judge thereof, having jurisdiction may, on application of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, compel obedience by proceedings as in contempt cases.

Section 295. KRS 211.345 is amended to read as follows:

The Department for ***Public*** Health~~[Services]~~ in the Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a program for testing, upon request of the owner or user of the water supply, private water supplies for bacterial and chemical contamination, and for educating the public about proper siting and drilling of wells and treatment of wells and other private water supplies. The program shall consist of the following elements:

(1) The development of policies, in conjunction with the Natural Resources and Environmental Protection Cabinet, for testing private water supplies and using relevant information in a groundwater database;

(2) The development of a data collection system, in conjunction with the Natural Resources and Environmental Protection Cabinet, which shall contain the results of water sample tests and information on well location sufficient to locate the wells on an official map;

(3) The development of a private water supply user's manual to be made available to the public; and

(4) The development of a technical assistance program for private water supply users.

Section 296. KRS 211.355 is amended to read as follows:

(1) Any local board of health authorized to serve as agent of the Cabinet for ***Health Services***~~[Human Resources]~~ for the issuance of permits for on-site sewage disposal systems may set a schedule of fees reasonably related to the cost of administering programs including:

  (a) Inspections incidental to construction, installation, and alteration of on-site sewage disposal systems; and

  (b) Inspections incidental to maintenance and operation of on-site sewage disposal systems.

(2) Such fees shall be designed to fully cover the cost of the services but shall not exceed the cost of the services performed. Fees payable to the board shall be used by the board only for the administration of said program.

(3) Nothing in this section shall authorize or allow the cabinet to inspect any on-site sewage disposal system constructed prior to July 15, 1986, unless such inspection is deemed necessary due to receipt of a complaint by the cabinet or the local health department. In such an instance, the cabinet shall document or shall require the local health department to document the source and nature of such complaint.

Section 297. KRS 211.357 is amended to read as follows:

(1) The cabinet shall establish a program to certify persons as installers of on-site sewage disposal systems. A master plumber licensed pursuant to KRS Chapter 318 or a person who provides written verification from the local health department in the county in which the work was completed that he installed five (5) lateral fields and septic tank systems prior to July 13, 1984, and that these installations had been inspected by a certified inspector and passed inspection, shall be certified automatically.

(2) The cabinet shall establish as a part of the certification program referenced in subsection (1) of this section a means of issuing a probationary certification for installers of on-site sewage disposal systems. This probationary certification shall automatically be converted to a full certification at the time that the holder of the probationary certificate has installed five (5) lateral fields and septic tank systems and has provided written verification from the local health department in the county in which the work was completed that these installations have been inspected by a certified inspector and passed the inspection. The cabinet shall issue a full certificate to the holder of the probationary certificate no later than sixty (60) days after receipt of verification. In order to be issued a probationary certification, eligible persons shall certify in writing that they will make installations in accordance with requirements set forth by the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) Persons certified as installers, except master plumbers licensed pursuant to KRS Chapter 318, shall pay a reasonable fee of not more than twenty-five dollars ($25) for certification.

(4) The cabinet may revoke or suspend any certification issued pursuant to this section upon proof that the certified person has:

  (a) Knowingly violated the provisions of this chapter or the regulations of the cabinet;

  (b) Practiced fraud or deception in applying for or obtaining a certificate;

  (c) Is incompetent to install on-site sewage disposal systems;

  (d) Permitted the certification to be used directly or indirectly by another to install on-site sewage disposal systems; or

  (e) Is guilty of other unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

(5) Upon appeal of any decision to revoke or suspend a certification, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6) Nothing in this section shall be construed to condone the installation of on-site sewage disposal systems contrary to specifications for these systems established by the cabinet.

Section 298. KRS 211.365 is amended to read as follows:

In order to provide for the issuance of plumbing installation permits pursuant to KRS Chapter 318 and on-site sewage disposal permits pursuant to this chapter in a manner convenient to the public, the Cabinet for ***Health Services***~~[Human Resources]~~ shall provide office space in the local departments of health for the district plumbing inspector without fee or charge to the Department of Housing, Buildings and Construction.

Section 299. KRS 211.370 is amended to read as follows:

The commissioner of the Department for ***Public*** Health[~~ Services~~] shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue permits for on-site sewage disposal systems within that area of local board jurisdiction. As agent, the authorized local board of health shall act for the cabinet in issuing permits and granting variances for on-site sewage disposal systems. Actions by the local board of health shall comply with the regulations established by the cabinet relating to on-site sewage disposal systems. The local board of health shall include in the written request a procedure for administering this section. The local board of health may adopt regulations relating to the proper operation and maintenance of on-site sewage disposal systems. In counties containing a city of the first class and in urban counties, the local board of health may adopt regulations relating to the proper construction, installation and alteration of on-site sewage disposal systems which are more stringent than the regulations adopted by the cabinet.

Section 300. KRS 211.420 is amended to read as follows:

(1) There is hereby established within the Cabinet for ***Health Services***[~~Human Resources~~], a rural Kentucky dental scholarship fund.

(2) There shall be available each fiscal year to applicants selected by the board with the approval of the Dental Health Program of the Cabinet for ***Health Services***[~~Human Resources~~], no less than ten (10) scholarships for the study of dentistry leading to the attainment of the degree of Doctor of Dental Surgery, or some equivalent degree.

(3) The amount of each scholarship shall be a reasonable sum determined by the board, but shall not be less than one thousand five hundred dollars ($1,500) per annum.

(4) In granting scholarships the board shall make a careful and full investigation of the ability, character and qualifications of each applicant, and may personally examine each applicant. The board shall, whenever possible, grant financial assistance to the applicants with the greatest financial need, provided such persons are found to possess such qualities as give reasonable assurance of their successfully completing the course of study made possible by the scholarship.

Section 301. KRS 211.430 is amended to read as follows:

(1) To be eligible for a scholarship made available under KRS 211.405 to 211.460, an applicant must:

  (a) Have been a resident of this Commonwealth for not less than five (5) years immediately preceding the date of application;

  (b) Be acceptable for enrollment in a dental school accredited by the Council on Dental Education of the American Dental Association, and approved by the board; and

  (c) Furnish satisfactory evidence to the board that he does not have sufficient financial resources to enable him to study dentistry without assistance.

(2) Before a scholarship is granted, the applicant shall contract in writing with the board, that he will, within six (6) months from the date he completes his term of study, engage in the practice of dentistry in a locality or localities within this Commonwealth to be designated by the Dental Health Program of the Cabinet for ***Health Services***[~~Human Resources~~], at the rate of one (1) year for each annual scholarship received, or proportional time for partial scholarships.

Section 302. KRS 211.461 is amended to read as follows:

As used in KRS 211.461 to 211.466, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Private review agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any person providing or administering health benefits to citizens of this Commonwealth;

(3) "Registration" means an authorization issued by the cabinet to a private review agent to conduct utilization review;

(4) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or his designee;

(5) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a patient or group of patients for purposes of determining the availability of payment; and

(6) "Utilization review plan" means a description of the procedures governing utilization review activities performed by a private review agent.

Section 303. KRS 211.464 is amended to read as follows:

(1) Within ninety (90) days of July 13, 1990, the cabinet shall promulgate administrative regulations to implement the provisions of this chapter including the following:

  (a) The establishment of fees for applications and renewals in an amount sufficient to pay for the administrative costs of the program and any other costs associated with carrying out the provisions of KRS 211.461 to 211.466 not to exceed five hundred dollars ($500).

(b) Specification of information required of applicants for registrations and renewals, which shall include, at a minimum:

1. A utilization review plan that includes:

a. Utilization review policies and procedures to be used in evaluating proposed or delivered hospital care;

b. Those instances, if any, under which utilization review may be delegated to a hospital utilization review program;

c. The procedures by which patients, physicians, or hospitals may seek timely reconsideration or appeal of adverse decisions by the private review agent;

d. The manner in which the private review agent shall notify the patient, hospital, and physician when payment for hospital or medical care is denied including the reasons for the denial;

2. The type and qualifications of the personnel either employed or under contract to perform utilization review;

3. Assurances that a toll-free line will be provided for patients, hospitals, and physicians to contact the private review agent and policies and procedures to insure that a representative of the private review agent shall be reasonably accessible to patients and providers at least forty (40) hours per week during normal business hours;

4. The policies and procedures to insure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

5. A copy of the materials designed to inform applicable patients and providers of the requirements of the utilization review plan;

6. A list of the third-party payors for which the private review agent is performing utilization review in this state; and

7. Evidence of compliance or ability to comply with the requirements of KRS 211.461 to 211.466 and the regulations;

(c) A process for the review of applications for registrations and renewals, including application procedures, procedures for supplementing the application on the request of the secretary, reasonable timetables for review and decision, and notice procedures;

(d) A process for the revocation of registration, which shall include notice provisions, and reasonable timetables for decision on a revocation;

(e) A process for the appeal of a denial of a registration or renewal or of a revocation of a registration, which shall include the right to an administrative hearing conducted in accordance with KRS Chapter 13B;

(f) A process for reviewing any written complaints that a private review agent has failed to perform review in accordance with the utilization review plan submitted pursuant to KRS 211.461 to 211.466 or to comply with any requirements of KRS 211.461 to 211.466 or regulations promulgated thereunder which shall require the secretary to:

1. Within ten (10) days of the receipt, send a copy of the complaint to the private review agent and require that any written reply be sent to the secretary within ten (10) days;

2. Upon review of a complaint, make a recommendation to the insurer or private review agent and the insured; and

3. Consider complaints before issuing or renewing any registration to a private review agent; and

(g) The establishment of an appeal process to resolve disputes between private review agents and health care providers and patients.

(2) The cabinet may establish reporting requirements to:

(a) Evaluate the effectiveness of private review agents; and

(b) Determine if the utilization review programs are in compliance with the provisions of KRS 211.461 to 211.466 and applicable regulations.

(3) On request of any health facility, physician, or patient whose care is subject to review, the cabinet shall provide copies of policies or procedures of any private review agent which has been issued a registration to conduct review in this state.

(4) The cabinet shall, on a bimonthly basis, compile a list of registered private review agents along with the renewal dates of their registrations and the date upon which any private review agents submitted changes to their policies or procedures. This information shall be made available upon request.

(5) The Cabinet for ***Health Services***~~[Human Resources]~~ shall report to the General Assembly by July 1, 1991, and each year thereafter on the number of private review agents conducting utilization review, the type of criteria used to perform utilization review, and the feasibility of adopting uniform standards for one (1) or more aspects of utilization review including standardized forms for data collection and the medical procedures for which preauthorization and second surgical opinion would be required.

Section 304. KRS 211.500 is amended to read as follows:

(1) The Kentucky Spinal Cord and Head Injury Research Board is hereby created for the purpose of administering the spinal cord and head injury research trust fund created pursuant to KRS 211.504. The board shall be composed of seven (7) members appointed by the Governor as follows:

(a) Two (2) members representing the University of Kentucky College of Medicine;

(b) Two (2) members representing the University of Louisville School of Medicine;

(c) One (1) member who has a spinal cord or head injury or who has a family member with a spinal cord or head injury;

(d) One (1) member representing the Kentucky Medical Association; and

(e) One (1) at-large member.

(2) Board members shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred in the performance of duties incident to the provisions of KRS 211.500 to 211.504.

(3) The terms of board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 1995;

(b) Two (2) on June 30, 1996;

(c) Two (2) on June 30, 1997; and

(d) One (1) on June 30, 1998.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership of the board shall constitute a quorum.

(6) The board shall elect, by a majority vote, a chairman who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The chairman shall be elected or reelected for each calendar year. The board shall have such other organization as deemed necessary and approved by the board.

(7) Meetings of the board shall be held at least twice a year but may be held more frequently as deemed necessary, subject to call by the chairman or by request of a majority of the board members. Board meetings shall concern, among other things, policy matters relating to spinal cord and head injury research projects and programs, research progress reports, authorization of projects and financial plans, and other matters necessary to carry out the intent of KRS 211.500 to 211.504.

(8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(9) The board shall be attached to the Cabinet for ***Health Services***~~[Human Resources]~~ for administrative purposes.

Section 305. KRS 211.640 is amended to read as follows:

The duties of the Cabinet for ***Health Services***~~[Human Resources]~~ shall be to:

(1) Promote and develop effective programs of education, health, recreation, welfare, public safety and correctional services for children and youth;

(2) Conduct continuing programs of public information to educate the public as to problems of children and youth;

(3) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of children and youth;

(4) Cooperate with the federal government and with the governments of other states and cities in programs relating to children and youth;

(5) Conduct programs of research as to the needs of children and youth in order to facilitate more comprehensive and better related social planning and action.

Section 306. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and 213.046, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) "Certificate" means the certificate of birth required by KRS 213.046;

(3) "Commission" means the Commission for Children with Special Health Care Needs;

(4) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(5) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss;

(6) "High risk infant" means a child at birth who is at a higher risk than normal of being hard of hearing due to one (1) or more of the following factors present at birth:

- (a) Family history of a congenital hearing loss;
- (b) Rubella or virus during pregnancy;
- (c) Congenital ear, nose, or throat anomalies;
- (d) Below normal birth weight;
- (e) Abnormal level of jaundice;
- (f) Anoxia or apnea; and
- (g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration.

Section 307. KRS 211.647 is amended to read as follows:

(1) The commission on receipt of the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family.

(2) The commission's process for identifying high risk infants shall include a timely review of all hearing risk certificates to identify the presence of factors determined to occur frequently with hearing loss in newborn infants. The commission shall secure information missing from certificates which is relevant to identifying high risk infants.

(3) The commission shall involve agencies and organizations which provide services to deaf and hard of hearing children, including, but not limited to, the Department of Education, the Cabinet for ***Health Services***[~~Human Resources~~], and the Commission on the Deaf and Hard of Hearing, in planning for and implementation of this section. Cumulative demographic data of identified high risk infants shall be made available to agencies and organizations requesting the information for planning purposes.

Section 308. KRS 211.651 is amended to read as follows:

As used in KRS 211.651 to 211.670, unless the context otherwise requires:

(1) "Cabinet" ***means***[~~shall mean~~] the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Secretary" ***means***[~~shall mean~~] the secretary of the Cabinet for ***Health Services***[~~Human Resources~~];

(3) "Department" ***means***[~~shall mean~~] the Department for ***Public*** Health[~~ Services~~]; ***and***

(4) "Designee" ***means***[~~shall mean~~] a local health department, mental health/mental retardation board, or other governmental or private agency designated by the Department for ***Public*** Health[~~ Services~~].

Section 309. KRS 211.660 is amended to read as follows:

(1) The Department for ***Public*** Health[~~ Services~~] shall establish and maintain a Kentucky birth surveillance registry that will provide a system for the collection of information concerning birth defects, stillbirths, and high risk conditions. The system may cover all or part of the Commonwealth.

(2) In establishing the system, the department may review vital statistics records, and shall also consider expanding the current list of congenital anomalies and high risk conditions as reported on birth certificates.

(3) The department may require general acute care hospitals licensed under the provisions of KRS Chapter 216B to maintain a list of the following information: All inpatients up to the age of five (5) years with a primary diagnosis of a congenital anomaly or high risk condition as defined by the department upon the recommendation of the appointed advisory committee.

(4) With the written consent of one (1) parent or guardian, the department may have access to the medical records of any patient meeting the criteria in subsection (3) of this section that are maintained by general acute care hospitals and freestanding birthing centers licensed under the provisions of KRS Chapter 216B.

(5) The Department for ***Public*** Health[~~ Services~~] may implement the provisions of KRS 211.651 to 211.670 through the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 310. KRS 211.684 is amended to read as follows:

(1) For the purposes of KRS Chapter 211:

(a) "Child fatality" means the death of a person under the age of eighteen (18) years; and

(b) "Local child fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child deaths, including but not limited to, coroners, family service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys.

(2) The Department for ***Public*** Health[~~ Services~~] may establish a state child fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health care providers, and other agencies or professions deemed appropriate by the commissioner of the department.

(3) If a state team is created, the duties of the state team may include the following:

(a) Develop and distribute a model protocol for local child fatality response teams for the investigation of child fatalities;

(b) Facilitate the development of local child fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;

(c) Review and approve local protocols prepared and submitted by local teams;

(d) Receive data and information on child fatalities and analyze the information to identify trends, patterns, and risk factors;

(e) Evaluate the effectiveness of prevention and intervention strategies adopted; and

(f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child fatalities.

(4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the Legislative Research Commission, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis of the incidence and causes of child fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child fatality cases.

Section 311. KRS 211.760 is amended to read as follows:

(1) No person shall engage in, offer to engage in, or carry on any business of tattooing of humans by nonmedical personnel for remuneration within the Commonwealth of Kentucky without first registering with the local health department in the district or county in which the person is to perform tattooing. Registrations shall be valid for one (1) year. Applicants for registration shall pay a fee of twenty dollars ($20) to the local or district health department.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations relating to:

(a) Health and cleanliness of places of business in which tattooing is conducted;

(b) Sterilization of tattooing apparatus;

(c) Procedures to prevent the spread of disease or infection during or relating to tattooing procedures;

(d) Procedures to prevent the tattooing of minors without the consent of one (1) parent or guardian; ***and***

(e) Such other administrative regulations as may be necessary to protect public health or properly administer the program requirements of this section.

(3) Representatives of the cabinet or local or district health departments may visit tattooing facilities at any time during business hours to ensure compliance with the requirements of this section. Representatives of local or district health departments shall visit each registered tattooing facility in their county or district not less than twice each year.

(4) The provisions of this section shall not apply to a person who engages in the application of permanent make-up.

(5) Any administrative hearing conducted under this section shall be conducted in accordance with KRS Chapter 13B.

Section 312. KRS 211.820 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall have the following functions, powers***,*** and duties:

(a) To conduct a survey of all of the existing facilities within the state having to do with the diagnosis, evaluation and treatment of patients with kidney disease and to prepare and submit its findings and a specific program of action***;***[~~.~~]

(b) To evaluate the need for the creation of local or regional facilities and for the establishing of a major kidney research center***;***[~~.~~]

(c) To develop and administer scientific investigations into the cause, prevention, methods of treatment and cure of renal disease, including research into transplantation of kidneys***;***[~~.~~]

(d) To develop techniques for an effective method of mass testing for the detection of kidney diseases and urinary tract infections***;***[~~.~~]

(e) To develop more efficient methods of medical care for kidney disease and to develop more effective and economical kidney dialysis equipment***;***[~~.~~]

(f) To survey and evaluate the need for a program of professional education and training for medical students, physicians and nurses in the care and treatment of kidney diseases***;***[~~.~~]

(g) To report to the Governor and to a committee of the Legislature annually on or before February 1 its findings, a progress report, its activities and the state's total needs in this area***; and***[~~.~~]

(h) To enter into such contracts and agreements with individuals, colleges, universities, associations, corporations, municipalities and other units of government as may be deemed necessary and advisable to carry out the general intent and purposes of this section. Such contracts may provide for payment by the state, within the limit of funds available, for materials, equipment or services.

(2) The secretary may adopt rules and regulations necessary to effect the purposes of this section.

Section 313. KRS 211.842 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] is the radiation control agency of the State of Kentucky.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] shall develop and conduct programs for evaluation and control of hazards associated with the use of sources of ionizing, non-ionizing, and electronic product radiation.

(4) The cabinet or its duly authorized representative may enter at a reasonable time upon the property of a licensee, registrant, or other person where sources of ionizing, non-ionizing, or electronic product radiation are reasonably believed to be located for the purpose of determining whether or not such licensee, registrant, or other person is in compliance with or in violation of the provisions of KRS 211.842 to 211.852 and administrative regulations promulgated hereunder, and the owner, occupant, or person in charge of the property shall permit entry and inspection; provided, that entry into areas under the jurisdiction of an agency of the federal government or its duly designated representative shall be only upon permission of the agency or its representative.

Section 314. KRS 211.843 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] may, by administrative regulation, require licensees of radioactive materials to provide an adequate surety or other financial arrangement, in such amount as the secretary deems reasonably appropriate to cover potential clean-up costs in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the secretary regarding a radioactive material accident or other public health hazard created by the presence of radioactive material at a site occupied by the licensee or formerly under its possession, ownership, or control. Acceptable sureties include bonds issued by fidelity or surety companies authorized or eligible to do business in Kentucky, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts or such other types of arrangements, but shall not include any arrangement which essentially constitutes self insurance. The secretary shall be the obligee of the surety and the proceeds of the surety shall be used by the secretary for defraying the cost of cleaning up and decontaminating the area of property involved. Failure to comply with any regulation promulgated to carry out this section by any licensee shall result in automatic revocation of such license by operation by law.

Section 315. KRS 211.844 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall provide by administrative regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The cabinet may prescribe specific conditions or means for the disposal and volume and source reduction of radioactive materials including radioactive waste. These administrative regulations shall include but need not be limited to specification of the form of applications for registration and licenses, the qualifications therefor, grounds for revocation, appeal pursuant to KRS Chapter 13B, and other matters necessary to carry out the intent of KRS 211.842 to 211.852 and to protect the public from unnecessary radiation exposure.

(2) All administrative regulations adopted prior to June 17, 1978, by the Cabinet for Human Resources and on file with the Legislative Research Commission shall continue in full force and effect unless subsequently amended or repealed pursuant to the provisions of KRS 211.842 to 211.852.

Section 316. KRS 211.846 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall monitor radioactive waste material sites in Kentucky for the protection of the public health, safety and welfare. The Finance and Administration Cabinet and the Cabinet for ***Health Services***[~~Human Resources~~] shall cooperate and coordinate their activities in the leasing, regulation, monitoring and control of radioactive waste material burial sites.

Section 317. KRS 211.848 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall fix a reasonable schedule of fees and charges,

by regulation, to be paid by applicants for registration of radiation producing machines and radioactive material licenses and for renewal of the certificates and licenses. The secretary shall also prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the cabinet.

(2) All fees and charges collected by the Cabinet for ***Health Services***~~[Human Resources]~~ under the provisions of KRS 211.842 to 211.852 or the administrative regulations adopted pursuant to KRS 211.844 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***~~[Human Resources]~~ in carrying out the provisions of KRS 211.842 to 211.852.

Section 318. KRS 211.850 is amended to read as follows:

Whenever, in the opinion of the Attorney General or the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, the person is violating or is about to violate any of the provisions of KRS 211.842 to 211.852, or any regulation lawfully promulgated pursuant thereto, the Attorney General or the secretary may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the violative act, and upon a showing that such person has engaged or is about to engage in such activity, a restraining order or permanent or temporary injunction, or any other appropriate order shall be granted.

Section 319. KRS 211.852 is amended to read as follows:

(1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky shall require prior approval by a majority of the members of the Kentucky House of Representatives, a majority of the members of the Kentucky Senate and the approval of the Governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval to the Kentucky General Assembly, it must first receive the approval of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and the secretary of the Natural Resources and Environmental Protection Cabinet. It shall be the responsibility of the Cabinet for ***Health Services***~~[Human Resources]~~ and the Natural Resources and Environmental Protection Cabinet to ensure that a comprehensive environmental impact statement is submitted and that public hearings are held in the county in which it is proposed to locate a nuclear waste disposal facility.

(3) This section shall not apply to nuclear waste disposal facilities in existence prior to June 17, 1978.

Section 320. KRS 211.854 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ may monitor the radiation in discharges into rivers along the Kentucky border from all nuclear power plants located on either side of such rivers for the protection of the health, safety, and welfare of the citizens of the Commonwealth. Monitoring may be conducted on a continuous basis.

(2) If there is evidence that the effluent standards applicable to any nuclear power facility are not being properly and expeditiously enforced, the Attorney General shall report such violations to the United States attorney for appropriate action or bring an action of mandamus against the appropriate enforcement agency.

Section 321. KRS 211.855 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall be the regulatory agency for the control of radon in the Commonwealth of Kentucky.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall develop and conduct programs for evaluation and control of activities related to radon including laboratory analyses, mitigation, and measurements.

Section 322. KRS 211.856 is amended to read as follows:

(1) No person shall engage in radon analysis, mitigation, or testing activities without obtaining certification from the Cabinet for ***Health Services***~~[Human Resources]~~. The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A, which shall include, but not be limited to, specifications of the form of applications for certification, the qualifications for certification, grounds for revocation of certification, and other matters as may be necessary to protect the public from unnecessary radiation exposure from radon.

(2) The secretary of ***health services***~~[human resources]~~ shall fix a reasonable schedule of fees, by administrative regulation promulgated pursuant to KRS Chapter 13A, to be paid by applicants for certification and renewal of radon mitigators, testors, and laboratories. The secretary shall also prescribe, by administrative regulation promulgated pursuant to KRS Chapter 13A, a reasonable schedule of fees to be paid by certified radon mitigators, testors, and laboratories for inspections and environmental surveillance activities conducted by the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) All fees and fines collected by the Cabinet for ***Health Services***~~[Human Resources]~~ under the provisions of KRS 211.855 to 211.858 or the administrative regulations promulgated pursuant to KRS 211.855 to 211.858 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***~~[Human Resources]~~ in carrying out the provisions of KRS 211.855 to 211.858.

(4) State and local governmental agencies shall be exempt from the payment of fees but shall otherwise comply with KRS 211.855 to 211.858.

Section 323. KRS 211.857 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ may institute proceedings in Circuit Court for an order enjoining a person from engaging or attempting to engage in activities which violate the provisions of KRS 211.855 to 211.858 or administrative regulations promulgated pursuant to KRS 211.855 to 211.858. Upon a showing that a person has engaged in or is about to engage in this activity, a restraining order, permanent injunction, temporary injunction, or other appropriate order shall be granted.

Section 324. KRS 211.858 is amended to read as follows:

Any person who violates KRS 211.855 to 211.858 or any administrative regulation promulgated pursuant to KRS 211.855 to 211.858 or who fails to comply with an order of the Cabinet for ***Health Services***~~[Human Resources]~~ issued pursuant to KRS 211.855 to 211.858 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day the violation or noncompliance continues.

Section 325. KRS 211.870 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ may promulgate administrative regulations relating to operators of sources of radiation other than licensed practitioners of the healing arts. The administrative regulations may include, but need not be limited to, the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate radiation sources; issuance, renewal, and revocation of certificates; appeal of certificate denials or revocations pursuant to KRS Chapter 13B; and other standards or regulations appropriate for protection of health and safety.

Section 326. KRS 211.890 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ is authorized to fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for examinations, certificates, and renewal certificates. All such fees and charges and other moneys collected by the Cabinet for ***Health Services***~~[Human Resources]~~ under the provisions of KRS 211.870 and 211.890 or the rules and regulations adopted under KRS 211.870 and 211.890 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***~~[Human Resources]~~ in carrying out the provisions of KRS 211.870 and 211.890.

Section 327. KRS 211.894 is amended to read as follows:

(1) The Governor, the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, the secretary of the Natural Resources and Environmental Protection Cabinet or any other state agency shall not enter into a contract or an agreement of any kind with the federal government relinquishing ownership of a low level nuclear waste disposal site located in the Commonwealth without prior approval of a majority of the members of the Kentucky House of Representatives and a majority of the members of the Kentucky Senate.

(2) It shall be the policy of the Commonwealth to retain final authority for approving or disapproving the locating, opening, closing, or reopening of a nuclear waste disposal site or facility within its borders.

(3) The Governor or appropriate state agencies may enter into contracts and agreements with the federal government relating to nuclear waste disposal sites located in the Commonwealth on July 15, 1980, that do not violate the provisions of subsections (1) and (2) of this section.

Section 328. KRS 211.896 is amended to read as follows:

(1) Any nuclear waste disposal facility, licensed and regulated by the Kentucky Cabinet for ***Health Services***~~[Human Resources]~~, which is closed either because there is doubt as to the public safety of the site, the integrity of the site, the economic feasibility of financing perpetual care and maintenance and decommissioning of the site, or compliance with cabinet regulations, shall not reopen without:

    (a) A finding of fact by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and the secretary of the Natural Resources and Environmental Protection Cabinet that all reasons for site closure have been addressed and resolved such that there is no longer any doubt as to the public safety or integrity of the site or the ability to adequately finance the perpetual care and maintenance and decommissioning of the site or the compliance of the site with cabinet regulations; and

    (b) A public hearing and the taking of public comment on such findings of fact; and

    (c) Approval of a majority of the members of the House of Representatives and a majority of the members of the Senate; and

    (d) Approval of the Governor.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall be responsible for organizing the public hearings, which shall be held in the county in which the nuclear waste disposal facility is located and shall be at a time and place convenient for public participation. Adequate notification shall be given to the public of the intention to reopen a nuclear waste disposal site and the cabinet shall make available to the public the data and information upon which its decision to recommend approval of reopening of the site is based.

Section 329. KRS 211.900 is amended to read as follows:

As used in KRS 211.900 to 211.905 and KRS 211.994, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Secretary" shall mean the secretary for ***health services***[~~human resources~~] or his authorized representative;

(3) "Lead based substance" shall mean any substance containing more than 0.06% lead by weight of nonvolatile content as provided in KRS 217.801;

(4) "Dwelling" shall mean any structure, all or a part of which is designed for human habitation;

(5) "Dwelling unit" shall mean any room or group of rooms or other interior areas of a dwelling designed or used for human habitation;

(6) "Owner" shall mean any person who, alone, jointly, or severally with others, has legal title to, charge, care, or control of any dwelling or dwelling unit as owner, agent of the owner, or as executor, administrator, trustee, conservator, or guardian of the estate of the owner;

(7) "At risk persons" shall mean those persons who reside in dwellings or dwelling units which were constructed and originally painted prior to 1945 or other dwellings in geographic areas in which a high content of lead in paint was used and a high incidence of lead poisoning may be reasonably expected or has been reported; and

(8) "Outreach programs" shall mean those efforts to locate, screen, and diagnose for elevated lead blood levels, those at risk persons who are not utilizing existing screening and diagnostic programs or those programs which may be established after June 21, 1974.

Section 330. KRS 211.9061 is amended to read as follows:

For the purposes of KRS 211.9061 to 211.9079 and KRS 211.990:

(1) "Child-occupied facility" means a building, or portion of a building constructed prior to 1978 other than target housing in which a child, six (6) years of age or under, spends at least three (3) hours a day, two (2) days a week, including but not limited to, child day-care facilities, family child-care homes, pre-schools, and kindergarten classrooms;

(2) "Department" means the Department for ***Public*** Health[~~ Services~~];

(3) "Lead-hazard detection" means an inspection or risk assessment conducted to determine the existence, nature, severity, and location of lead hazards;

(4) (a) "Lead-hazard abatement" means a set of measures designed and intended to permanently eliminate lead hazards in a manner which will protect children and adults from the risk of lead poisoning, including the following:

1. Removal, encapsulation, or enclosure of lead hazards;

2. Replacement of lead-contaminated surfaces or fixtures;

3. Removal or covering of lead-contaminated soil; and

4. Site preparation and cleanup, preparation of debris for disposal, and other post-abatement activities which are conducted at the site and are associated with the abatement.

(b) "Lead-hazard abatement" does not include the following:

1. Renovation, remodeling, or landscaping activities which are not designed to permanently eliminate lead hazards, but are designed to repair, restore, or remodel a structure or a dwelling, even though these activities may incidentally result in a reduction or elimination of lead hazards; or

2. Interim controls, operations and maintenance activities, or other measures or activities designed to temporarily, but not permanently, reduce lead hazards***; and***[~~.~~]

(5) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities in which no child less than six (6) years of age resides or is expected to reside.

Section 331. KRS 211.9063 is amended to read as follows:

(1) Beginning July 1, 1997, all persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities shall be certified pursuant to this section.

(2) The Department for ***Public*** Health[~~ Services~~] shall create and administer a certification program for persons who perform or offer to perform lead-hazard detection or lead-hazard abatement services.

(3) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish the training and testing requirements for certification. The training and testing requirements and procedures established by the department shall be sufficient to reflect the ability of the person applying for certification to provide services in accordance with local, state, and federal laws and regulations that are applicable to the duties for which the person is requesting certification.

(4) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A

to provide for the enforcement of the certification program. The department may revoke, suspend, or restrict the certificate of any certificate holder and may refuse to issue or renew a certificate to a person who fails to comply with certification requirements. The department may also impose sanctions for any of the following reasons:

(a) Fraud or deceit in obtaining certification;

(b) Transfer of the authority granted by the certificate to another person; or

(c) Negligence or incompetence in compliance with applicable state and federal laws, regulations, and established standards of practice.

(5) No person certified pursuant to this section shall perform lead-hazard abatement services in target housing or child-occupied facilities, as defined in KRS 211.9061, without having obtained a permit to perform the services. An application for the permit shall be made to the department upon forms provided by the department, and shall be accompanied by the required fee established pursuant to KRS 211.9067. The permit fee shall be sufficient to fully cover the cost of the quality assurance inspection conducted to determine compliance with the certification requirements of this section, and the performance standards established pursuant to KRS 211.9075.

(6) The department shall consider and render a decision in response to a permit application submitted pursuant to subsection (5) of this section no later than seven (7) calendar days after the application and the applicable fee are received by the department. The quality assurance inspection of a lead-hazard abatement site shall occur no later than seven (7) working days after the department receives notification from the permit holder that the lead-abatement at the site has been completed. If the department does not meet the seven (7) day deadline, the department shall allow the permit holder to begin construction or other renovation activities upon completion of the abatement service. This approval shall not serve as a substitute for the final inspection required to determine compliance pursuant to subsection (5) of this section.

Section 332. KRS 211.9065 is amended to read as follows:

(1) Beginning January 1, 1997, all training programs providing or offering to provide an educational program designed to prepare persons for certification in lead-hazard detection or lead-hazard abatement services, pursuant to KRS 211.9063, shall be accredited pursuant to this section.

(2) The Department for ***Public*** Health[~~ Services~~] shall create and administer an accreditation program for training programs providing or offering to provide an educational program designed to prepare persons for certification in lead-hazard detection or lead-hazard abatement services.

(3) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish:

(a) The requirements for accreditation of training providers;

(b) The minimum requirements for curriculum content;

(c) The number of training hours to be completed by the trainee;

(d) The minimum amount of the training which requires the trainee to practice or otherwise apply lead-hazard detection or abatement skills or techniques in a hands-on manner; and

(e) The competency and proficiency to be demonstrated by the trainee in order to successfully complete the training.

(4) No later than October 1, 1996, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to provide for enforcement of the quality control standards for accredited training programs. The department may revoke, suspend, or restrict the certificate of accreditation for training providers and may refuse to issue or renew a certificate of accreditation to a training provider which fails to comply with accreditation requirements.

Section 333. KRS 211.920 is amended to read as follows:

As used in KRS 211.925 to 211.945, unless the context otherwise requires:

(1) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~].

(2) "State confinement facility" shall mean a penal or correctional facility or juvenile detention or treatment facility operated by or under the supervision of the Commonwealth of Kentucky.

(3) "Public health and health" shall mean and include, but shall not be limited to, all environmental, dental, mental, medical, and nutritional aspects of the health of persons confined in a state confinement facility.

Section 334. KRS 211.950 is amended to read as follows:

As used in KRS 211.952 to 211.958, unless the context otherwise requires:

(1) "Ambulance" means a vehicle which has been inspected and approved by the cabinet, including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being***;***[~~.~~]

(2) "Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the Cabinet for ***Health Services***[~~Human Resources~~] to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters or fixed wing aircraft. An ambulance provider may be licensed as an air ambulance provider; as a Class I ground ambulance provider; as a Class II ground ambulance provider; or as a Class III ground ambulance provider***;***[~~.~~]

(3) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury***;***[~~.~~]

(4) "Emergency medical services system" means a coordinated system of health care delivery that responds to the needs of the acutely sick and injured, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained personnel, medical first response, ground and air ambulance services, emergency medical facilities and specialty care hospitals, trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures***;***[~~.~~]

(5) "Regional emergency medical services system" means a system approved by the Cabinet for ***Health Services***[~~Human Resources~~] which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health care services in an appropriate geographical area***;***[~~.~~]

(6) "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability***; and***[~~.~~]

(7) "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

Section 335. KRS 211.952 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall maintain a program for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] shall establish and designate a single lead agency under the supervision and direction of the Commissioner of Health which will carry out all administrative functions related to the planning, development, improvement, and expansion of emergency medical services systems throughout the state. This will include:

(a) The training and certification of prehospital personnel;

(b) The promulgation of standards and regulations for emergency medical services personnel;

(c) The promulgation of administrative regulations for the licensing, inspection, and regulation of ambulance and medical first response providers. The administrative regulations shall address specific requirements for:

1. Air ambulance providers which provide basic or advanced life support services;

2. Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for both emergencies and scheduled ambulance transportation which is medically necessary;

3. Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;

4. Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care; and

5. Medical first response providers who provide prehospital basic life support services, or advanced life support services, but do not transport patients;

(d) Planning and development of emergency medical services and trauma care systems;

(e) Promulgation of voluntary standards for trauma centers and other specialized emergency medical facilities;

(f) Provision of funding and technical assistance as shall become available; and

(g) Establishing minimum data reporting requirements for ambulance providers and trauma centers and other specialized emergency medical facilities and collection and analysis of data related to the provision of emergency medical services and trauma care.

(3) Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.

(4) The cabinet shall transfer or otherwise make available to the lead emergency medical services agency necessary staff and funds required to carry out the purposes of this section, including regional emergency medical services advisors for any regional emergency medical services systems which shall be established by the cabinet, and shall promulgate administrative regulations and perform the necessary functions to carry out the purpose of this section including:

(a) Delineation, by administrative order of the secretary, of the geographic boundaries of regional emergency medical services systems.

(b) Promulgation of administrative regulations providing for:

1. Composition of regional emergency medical services advisory boards to serve in an advisory capacity to the Kentucky Emergency Medical Services Council;

2. Terms of office of regional emergency medical services advisory board members;

3. Appointment of regional emergency medical services advisory board members; and

4. Such other matters relating to regional emergency medical services systems as may be necessary.

(c) Provision of technical assistance to regional emergency medical services advisory boards, units of local government, and others in planning for the development, coordination, and monitoring of emergency medical services.

(d) Development of a statewide plan for the implementation of emergency medical services systems and trauma care systems within the Commonwealth of Kentucky which specifically addresses the unique needs of rural areas.

(e) Issuance of a format for the development of regional emergency medical services plans consistent with goals and standards included in the statewide emergency medical services plan.

(f) Application for, receipt of, and disposition of federal, state, or private funds by grant, appropriation, donation, or otherwise for emergency medical services programs, personnel and equipment.

(g) Awarding of funds to regional emergency medical services systems to implement specific objectives delineated in regional emergency medical services plans, including assistance to local governments for their provision of ambulance service.

(h) Development, monitoring, and encouragement of such other projects and programs which may be of benefit to emergency medical services in the Commonwealth.

(i) Conducting verification inspections to ensure compliance with voluntary standards established by the cabinet for trauma centers, emergency departments, and specialized hospital based services for which standards have been established by the cabinet for emergency medical services and trauma care systems.

(5) The cabinet shall establish a Kentucky Emergency Medical Services Council which shall advise the cabinet on issues relating to the development, implementation, regulation, maintenance, and reimbursement of emergency medical services systems and providers. This council shall be broadly representative of individuals, providers, and public officials having expertise in emergency medical services. The council shall consult with the Kentucky Board of Medical Licensure to establish medically appropriate standards and protocols which will be utilized by emergency medical services personnel and to assist the Kentucky Board of Medical Licensure in meeting the requirements of KRS 311.654. The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.

(6) Data and records generated and kept by the single emergency medical services administrative agency or its contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth shall be held confidential, shall not be admissible in court for any purpose, and shall not be subject to discovery; provided, however, that nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment which otherwise would be admissible or discoverable.

(7) Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.

Section 336. KRS 211.954 is amended to read as follows:

A matching fund program is hereby created for the purpose of assisting local ambulance providers in the purchases of ambulances and equipment. The fund shall consist of such moneys as may be appropriated by the General Assembly or may be obtained from other sources for the fund as provided in this section and KRS 211.956:

(1) Application and justification of need for moneys from the fund shall be based upon the state emergency medical services plan's priorities;

(2) Application for moneys from the fund may be made to the Cabinet for ***Health Services***[~~Human Resources~~] by any city, county, or regional emergency medical services system based upon guidelines established by the Cabinet for ***Health Services***[~~Human Resources~~];

(3) Moneys from the fund will provide for up to a maximum of fifty percent (50%) of the actual cost of any ambulance or other item of equipment desired to be procured. No county, including all grants to entities within the county, shall receive more than twenty-five thousand five hundred dollars ($25,500) from the fund per year;

(4) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the recipient city, county, or regional emergency medical services system;

(5) Funding periods shall coincide with the fiscal year as established by the Cabinet for ***Health Services***~~[Human Resources]~~; and

(6) Each ambulance or item of equipment purchased shall meet or exceed, if a standard has been set for the particular item of equipment, the standards set by the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 337. KRS 211.956 is amended to read as follows:

A matching fund program is hereby created for the purpose of assisting city and county governments in providing for an adequate number of trained emergency medical service personnel to respond to medical emergencies:

(1) Moneys from the fund may be provided to a city or county government for the following purposes:

(a) Purchase of emergency medical services training equipment and emergency medical services training aids;

(b) Provision of continuing education to certified emergency medical technicians, paramedics, first responders, and related emergency medical services personnel who respond to medical emergencies which is required to maintain state certification or licensure;

(c) Salary and fringe benefit enhancements for emergency medical technicians and paramedics who serve as attendants of ambulance services which are owned and operated by the applicant city or county or by an ambulance service district established pursuant to KRS Chapter 108; and

(d) Programs to train the general public in cardiopulmonary resuscitation or first aid in order to increase the likelihood of a citizen to render assistance in medical emergencies.

(2) Application for money from the fund may be made to the Cabinet for ***Health Services***~~[Human Resources]~~ by any city or county on an application form established by the cabinet. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A which set out further requirements and priorities for funds made available under this section.

(3) No county, including all grants to cities within the county, shall receive more than ten thousand dollars ($10,000) from the fund per year. Applicant cities and counties shall submit an acceptable plan to the cabinet to document the need for funds authorized under this section and to justify the funds requested and if approved shall submit a final report of activities conducted and report of expenditures based on the approved plan in a format established by the cabinet.

(4) Based on the availability of funds appropriated by the General Assembly, the cabinet shall annually prepare a preliminary estimate of funds available for each county prorated on the basis of each county's total population.

(5) Moneys awarded from the fund shall not exceed fifty percent (50%) of the approved total cost of any eligible application up to the total allocation available to each county.

(6) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the city or county.

Section 338. KRS 211.962 is amended to read as follows:

No person shall:

(1) Hold himself out as certified pursuant to KRS 211.962 to 211.968 nor use the initials "EMT" when he does not hold a current valid certification issued pursuant to KRS 211.962 to 211.968; or

(2) If certified, violate any provision of KRS 211.962 to 211.968 or any rule or regulation, adopted by the Cabinet for ***Health Services***~~[Human Resources]~~ relating to KRS 211.964.

Section 339. KRS 211.964 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations relating to emergency medical technicians. The regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services. Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B. No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.

(2) Recertification programs shall be organized to include continuing education and in-service training approved by the cabinet. The continuing education program shall be subject to the requirements of KRS 214.610(1).

(3) In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification

requirements, the emergency medical technician shall be recertified for the period of time specified by law.

(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.

(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.

(6) Other than the requirements of KRS 214.610(1), the cabinet shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.

(7) Other than the requirements of KRS 214.610(1), any person certified by the State Board of Medical Licensure as a paramedic shall be certified as an emergency medical technician by the cabinet. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that paramedic certification is issued or expires, and if a paramedic voluntarily gives up his certification prior to the expiration of his paramedic certification, his emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to recertify as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic certification, recertify as an emergency medical technician utilizing one (1) of the methods provided for in this section.

(8) A paramedic whose certification as a paramedic is suspended, revoked, or denied by the State Board of Medical Licensure shall have the same action taken automatically by the cabinet with regard to his emergency medical technician certification.

Section 340. KRS 211.966 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of certificates, and for the renewal of certificates issued pursuant to KRS 211.962 to 211.968. All such fees, charges or other moneys collected by the cabinet under KRS 211.962 to 211.968 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the Cabinet for ***Health Services***~~[Human Resources]~~ for carrying out the provisions of KRS 211.962 to 211.968.

Section 341. KRS 211.970 is amended to read as follows:

As used in KRS 211.972 to 211.982, unless the context requires otherwise:

(1) "Approved" means that which has been considered acceptable to the cabinet;

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~ and includes its authorized agents;

(3) "Grease" means fats or oils of animal, vegetable, or mineral origin, separately or in colloidal or dissolved states in combination with soaps, detergents, or food particles;

(4) "Grease trap" means a component designed to separate grease and its constituents from the wastewater stream, provide for storage of separated grease, and discharge the remaining wastewater for treatment;

(5) "Holding tank" means a tank which provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil absorption system, or connection to a municipal sewer. It also includes portable toilets and similar temporary use units which contain holding tanks;

(6) "Person" means any individual, firm, association, organization, partnership, business trust, corporation, company, or governmental unit;

(7) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~;

(8) "Sewage" means domestic blackwater and greywater wastes, but does not include waste from industrial or commercial processes;

(9) "Sewage pretreatment unit" means a watertight sewage treatment structure designed and constructed to receive raw sewage, separate solids from liquids, digest organic matter through a period of retention, and allow clarified effluent to discharge to a subsurface soil absorption system. Pretreatment units fall into three (3) basic categories:

  (a) Septic tanks, which rely predominantly on anaerobic bacterial action for treatment;

  (b) Aerobic units, which introduce atmospheric air into the sewage to promote treatment by aerobic bacteria; and

  (c) Combination units, which provide treatment through both anaerobic and aerobic bacterial action and mechanical filtering, ozonation, or ultraviolet irradiation;

(10) "Sewage sludge" means the solid or semisolid residues which are retained within a sewage pretreatment unit or grease

trap, as a result of mechanical, hydraulic, biologic, or chemical actions. It also includes raw sewage accepted and stored within a holding tank;

(11) "Site" means a facility or parcel of land under the ownership of any person which is intended for use as the ultimate disposal or treatment location for sewage sludge; and

(12) "Tank" means any container placed on a vehicle to carry in transport sewage sludge removed from a sewage pretreatment unit, grease trap, or holding tank.

Section 342. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for ***Health Services***[~~Human Resources~~] to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5) Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for ***Health Services***[~~Human Resources~~] adopted pursuant to KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.

(6) A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.

(7) Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.

(8) A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(9) Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(10) The penalties provided in subsections (6), (7), (8), and (9) of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(11) Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

Section 343. KRS 211.991 is amended to read as follows:

(1) Any person who intentionally violates any of the provisions of KRS 211.670 shall be guilty of a Class A misdemeanor.

(2) The penalty provided for in subsection (1) of this section shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of the Department for ***Public*** Health[~~ Services~~].

Section 344. KRS 211.993 is amended to read as follows:

Anyone who fails to comply with any provisions of KRS 211.870, 211.890 or with any rules or regulations adopted pursuant to KRS 211.870, 211.890 or fails to comply with any order of the Cabinet for ***Health Services***[~~Human Resources~~] issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of such violation or noncompliance shall constitute a separate offense.

Section 345. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall appoint, from a list of nominees, three (3) qualified, licensed, and practicing physicians; one (1) qualified, licensed, and practicing dentist; one (1) qualified, licensed, and practicing registered nurse; one (1) licensed engineer engaged in the practice of civil or sanitary engineering; one (1) qualified, licensed, and practicing optometrist; one (1) qualified licensed and practicing veterinarian; and one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, and county health department staff; and nominations of physicians, dentists, nurses, engineers, optometrists, and veterinarians shall be

solicited and obtained from the county's medical society, dental society, nursing association, engineering association, optometric association, and veterinarian association, respectively. If a county does not have three (3) qualified, licensed, and practicing physicians or one (1) qualified, licensed, and practicing dentist or one (1) qualified, licensed, and practicing registered nurse or one (1) qualified, licensed, and practicing civil or sanitary engineer or one (1) qualified, licensed, and practicing optometrist or one (1) qualified, licensed, and practicing veterinarian residing therein, the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years with physicians, dentists, and fiscal court appointees appointed in even-numbered years and nurses, engineers, optometrists, veterinarians, and lay appointees appointed in odd-numbered years, for terms from the date of their appointment, beginning on or after January 1, 1993, and until their successors are appointed, except the terms of the first appointment of all physician and fiscal court appointee terms beginning on January 1, 1993, shall expire on December 31, 1993; dentist terms beginning on August 1, 1992, shall expire on December 31, 1993; nurse, engineer, and optometrist appointments beginning on August 1, 1992, shall expire on December 31, 1994; and veterinarian and lay appointments beginning on October 1, 1992, shall expire on December 31, 1994. The members of the board shall receive no compensation for their services.

(2) The secretary shall remove any member, other than the county judge/executive or fiscal court appointee, who fails to attend three (3) consecutive scheduled meetings, and may remove any board member, except the county judge/executive or fiscal court appointee, as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 346. KRS 212.025 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ and any local health department, with the approval of the Cabinet for ***Health Services***~~[Human Resources]~~, is hereby authorized to provide home nursing care services and other health services and may charge fees therefor. The secretary of the Cabinet for Human Resources shall adopt a fee schedule covering all charges for such services.

(2) All fees and charges collected by the Cabinet for ***Health Services***~~[Human Resources]~~ or the local health department concerned shall be credited to a trust and agency fund to be used only for carrying out the provisions of this section.

Section 347. KRS 212.120 is amended to read as follows:

(1) Upon the creation of a county health department, the fiscal court of the county shall at once notify the Cabinet for ***Health Services***~~[Human Resources]~~ of the action of the county to create, establish and maintain a county health department. When the duly qualified officials of a county certify to the Cabinet for ***Health Services***~~[Human Resources]~~ a true copy of the order or vote establishing a health department, and providing for its maintenance, and state the amount of the annual appropriation provided by the county the Cabinet for ***Health Services***~~[Human Resources]~~ shall make an investigation as to the necessity of the development of the department, and the adequacy of the appropriation provided by the county therefor, and shall report its findings to the Governor.

(2) If the Cabinet for ***Health Services***~~[Human Resources]~~ finds that such county health department has been established in accordance with the provisions of this chapter and is being maintained, conducted and operated in accordance with the standards prescribed by the Cabinet for ***Health Services***~~[Human Resources]~~, the Cabinet for ***Health Services***~~[Human Resources]~~ shall, on or before July 1 in each year, allot to each such county health department such amount that the Cabinet for ***Health Services***~~[Human Resources]~~ deems to constitute a just and equitable share of all funds available therefor by appropriation by the General Assembly of this Commonwealth, by grants and gifts received by this Commonwealth from the government of the United States of America or any of its agencies or instrumentalities, and from other sources. Provided, however, that no allotment to any such county health department shall be less than two thousand five hundred dollars ($2,500).

(3) In determining the allotments referred to in subsection (2) of this section, the Cabinet for ***Health Services***~~[Human Resources]~~ shall endeavor to provide for a distribution of the funds in a manner that is reasonably calculated to equalize, so far as practicable, local health services to the people of all counties served by the county health departments. The Cabinet for ***Health Services***~~[Human Resources]~~ may take into consideration variations existing between counties by reasons of difference in population, resources, industrialization, tax assessments and tax rates, and other local factors and conditions; the legislative intent being hereby declared to be that counties shall provide, from local sources of revenue that are available or that may be made available to them, financial support of county health departments to the extent of their representative abilities.

(4) The Cabinet for ***Health Services***~~[Human Resources]~~ may, in its discretion alter or modify allotments from time to time and shall cancel any allotment whenever it finds that there is no further need or necessity for a particular county health department for whose benefit the allotment was made or whenever a particular county health department for whose benefit an allotment was made is not maintained, operated and conducted in accordance with the standards prescribed by the Cabinet for ***Health Services***~~[Human Resources]~~. Nothing in this section shall be construed as requiring the Cabinet for ***Health Services***~~[Human Resources]~~ to allot all funds available for local health purposes, or as prohibiting the department from allotting such portion thereof, as the department may determine, to a reserve account which may be

suballotted by the department in such a manner that it considers proper in the event of emergencies, disaster, or unforeseen events, without regard to the provisions of subsection (3) of this section.

(5) Notwithstanding the provisions of KRS 45.229 and any other provision of the Kentucky Revised Statutes, any unexpended or unencumbered balance of any appropriations made available for allotment and expenditure, as provided above, for the first fiscal year of each biennium, remaining at the end of such fiscal year, shall be carried forward and be available for expenditure at any time during the ensuing fiscal year within the biennium and no portion thereof shall lapse to the general fund.

Section 348. KRS 212.130 is amended to read as follows:

Immediately after receiving notice of the creation of a county or district department of health, the Cabinet for ***Health Services***[~~Human Resources~~] shall notify the secretary of the county board or boards of health to call a meeting of the county board or boards of health for the purpose of organizing the county or district department of health.

Section 349. KRS 212.170 is amended to read as follows:

(1) The county board of health of each county having a county department of health shall, subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~], appoint a health officer who shall, subject to merit system provisions, hold office at the pleasure of both the county board and the Cabinet for ***Health Services***[~~Human Resources~~].

(2) A health officer may:

(a) With the approval of the Cabinet for ***Health Services***[~~Human Resources~~] and the local boards of health concerned, serve in such capacity for more than one county; and

(b) At the discretion of the local board, act as chief administrative officer of the board.

(3) A health officer may appoint an administrative assistant for each county served by him subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~]. An administrative assistant shall exercise such duties as may be delegated to him by the health officer.

(4) A health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~], all medical, technical, clerical, professional, and other employees necessary for the maintenance and operation of the local health department in accordance with standards and merit system provisions prescribed by the Cabinet for ***Health Services***[~~Human Resources~~].

(5) In the absence of a local health officer, the secretary for ***health services***[~~human resources~~] or his duly appointed representative shall serve as health officer for the county concerned.

(6) Appeals under the local health department merit system shall be conducted in accordance with KRS Chapter 13B.

Section 350. KRS 212.180 is amended to read as follows:

Every health officer provided for by this chapter shall be a duly licensed physician, and shall possess such other qualifications that are prescribed by the cabinet for ***Health Services***[~~human resources~~].

Section 351. KRS 212.190 is amended to read as follows:

(1) The health officer of counties that do not have a county department of health shall receive a reasonable compensation, the amount of which shall be fixed by the fiscal court at the time of, or immediately after, his election, and to be paid as other county officers are paid. In no case shall such health officer claim or receive from the county any compensation other than the salary fixed by the fiscal court.

(2) The health officer of counties having a county department of health shall receive a salary to be fixed by the county board of health subject to the approval of the Cabinet for ***Health Services***[~~Human Resources~~]. He shall receive necessary traveling expenses.

Section 352. KRS 212.210 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] and the local boards of health may examine into all nuisances, sources of filth, and causes of sickness that may, in their opinion, be injurious to the health of the inhabitants in any county in this state, or in any vessel within any harbor or port in any county in this state. Whenever any such nuisance, source of filth, or cause of sickness is found to exist on any private property, or in any vessel within any port or harbor in any county in this state, or upon any watercourse in this state, the Cabinet for ***Health Services***[~~Human Resources~~] or the local board of health may order, in writing, the owner or occupant thereof, at his own expense, to remove the same within twenty-four (24) hours, or within such reasonable time thereafter as the board may order.

(2) If drinking water used by school children is found to be dangerous to their health, the local board of health or Cabinet for ***Health Services***[~~Human Resources~~] may order that a supply of pure water be furnished at the expense of the county or city board of education.

(3) If in the opinion of the local board of health or Cabinet for ***Health Services***[~~Human Resources~~] a school building is constructed in violation of law and is found to be unsanitary or unsafe for the housing of children, the local board of health or Cabinet for ***Health Services***[~~Human Resources~~] may institute an action in the Circuit Court of the county where

the building is situated, and the court, after due hearing and verifying the facts, may order a safe and sanitary school building to be erected within a reasonable time by the county or city board of education in accordance with the laws of the state governing the erection of schoolhouses and the control of disease, and the rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

(4) Any local board of health shall, for the purpose of controlling and eradicating rats and other unsanitary nuisances, require the owner or possessor of any building designed for human habitation and containing two (2) or more apartment units, to provide, where a specific area has been designated for the depositing of refuse on the premises, waste receptacles approved by the board. The board may further require that the design, construction, and maintenance of the area in which the waste receptacles are kept meet reasonable standards set by the board.

Section 353. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for ***Health Services***~~[Human Resources]~~;

(b) Hold a regular meeting at least once every three (3) months, except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months, and other special or regular meetings as desired and keep full minutes of all the proceedings in a book provided for this purpose;

(c) Adopt, except as otherwise provided by law, administrative regulations not in conflict with the administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

(d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, in accordance with KRS Chapter 13B, if the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of; ***and***

(f) Perform all other functions necessary to carry out the provisions of law and the regulations adopted pursuant thereto, relating to local boards of health~~; and~~

(2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 354. KRS 212.240 is amended to read as follows:

County departments of health shall:

(1) Administer and enforce in the county and in all cities and towns situated therein, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all of the rules and regulations of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ and county board of health issued thereunder;

(2) Under the general supervision of the county board of health and the Cabinet for ***Health Services***~~[Human Resources]~~, formulate, promote, establish, and execute policies, plans, and programs to safeguard the health of the people of the county and establish, maintain, implement, promote, and conduct facilities and services for the purpose of protecting the public health; ***and***

(3) Make such statistical or other reports relating to the activities of the department as they may deem expedient or as may be required by the county board of health or the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 355. KRS 212.245 is amended to read as follows:

County, city-county, and district health departments may:

(1) Utilize available services, facilities, equipment and personnel of the Cabinet for ***Health Services***~~[Human Resources]~~ or of the United States Public Health Service upon such terms of payment or reimbursement as are agreed on by the department and the Cabinet for ***Health Services***~~[Human Resources]~~ or the United States Public Health Service;

(2) Contract for services not otherwise available;

(3) Provide for the public health training and instruction of employees and compensate and defray the reasonable expenses of said employees while they are pursuing public health training courses approved by the Cabinet for ***Health Services***~~[Human Resources]~~;

(4) Establish or contribute to a retirement system or fund for employees of the department, including any retirement system for state employees;

(5) Issue and require the heads of families and other persons to execute such orders as it considers expedient to prevent the outbreak and spread of communicable diseases, and to this end bring the infected population under prompt and proper treatment;

(6) Issue written orders directed to the owner or occupant of any property, or to any person, firm or corporation whatever, commanding, within the time and manner specified in the order, compliance with applicable public health laws of this state and all regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ or the county board of health. Notwithstanding the provisions of this section and KRS 212.210, any health officer may institute and maintain mandatory or prohibitory injunction proceedings in the appropriate Circuit Courts of this state to abate nuisances that are or may be a menace to the health of the people of the state or community, and to compel compliance with the public health laws of this state and the rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ and the county board of health and the orders described in this section or in KRS 212.210;

(7) Through its health officers, representatives and agents, enter upon any premises when necessary for the purpose of making inspections and investigations and view evidence and interrogate persons to the extent required in the performance of their duties and responsibilities. The department or the health officer thereof may issue subpoenas, subpoena duces tecum and all necessary process in proceedings brought before or initiated by the department or board, and such process shall extend to all parts of the Commonwealth. Service of process may be made by certified mail, return receipt requested or in the manner prescribed by the Rules of Civil Procedure;

(8) Provide administrative, investigative and clerical services required by the local board of health;

(9) Cooperate with other health departments, agencies and organizations in matters relating to public health;

(10) Elect coverage under the state's workers' compensation laws with the approval of the Cabinet for ***Health Services***~~[Human Resources]~~; ***or***

(11) Except as otherwise provided by law, do all other things reasonably necessary to protect and improve the health of the people.

Section 356. KRS 212.260 is amended to read as follows:

(1) The health officer of a county that does not have a county department of health shall enforce the rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ and county boards of health.

(2) The health officer of a county that has formed a county department of health shall:

(a) Devote his entire time to the duties of his office, and shall not engage in the private practice of medicine;

(b) Be secretary of the county board of health and keep full minutes of the proceedings of the county board of health in a book provided for that purpose;

(c) Be the chief administrative officer of the county health department.

Section 357. KRS 212.270 is amended to read as follows:

The county and Commonwealth's attorneys and the Attorney General, within their respective jurisdictions, shall represent the Cabinet for ***Health Services***~~[Human Resources]~~ and local boards of health in all matters relating to the enforcement of the health and medical laws and the performance of the duties of those boards, but when the secretary for ***health services***~~[human resources]~~ deems it necessary, it may employ at its discretion special attorneys and inspectors to assist the county and Commonwealth's attorneys or the Attorney General and may pay reasonable compensation for the same from any unexpended funds at its disposal.

Section 358. KRS 212.370 is amended to read as follows:

When the board has been organized and the properties transferred, as~~[herein]~~ provided ***in KRS 212.350 to 212.620***, the board, throughout said county, including all municipalities therein, shall, except as otherwise provided by law, have exclusive control and operation, under the acts of the General Assembly of Kentucky, the ordinances, if any, of the legislative bodies of the municipalities in said county, the orders and resolutions, if any, of the fiscal court of said county, the regulations of the Cabinet for ***Health Services***~~[Human Resources]~~, and the rules and regulations of the board, of all matters relating to institutions safeguarding the public health, including city or county hospitals, tuberculosis hospitals, eruptive hospitals, chronic hospitals, medical care of the indigent, and all other matters affecting public health, including education of the public regarding such conditions, and the adoption of remedial measures, and the enforcement of all laws and regulations affecting public health, including existing ordinances of such city and, if any, of other municipalities in said county, and any ordinances which may be hereafter enacted by the legislative bodies of such municipalities, including laws and ordinances regulating sanitation, milk inspection, meat inspection, livestock inspection, wells, drinking water and fountains, vaults, vaccination and immunization, quarantine, and the maintenance of laboratories and clinics necessary for the promotion of public health. The board may expend funds for the purpose of conducting research work, including laboratory and biometrical work, and establishing, erecting and maintaining laboratories and other buildings and all appurtenances thereto for research work as to the prevalence, causes, cure, and prevention of disease, and to that end the board is authorized to expend funds in the employment of such persons or organizations, scientists, or research experts as the board may deem proper. The board shall be charged with the responsibility for the collection from official and other sources and for the publication of such statistics and information as may be useful and necessary for the performance of its duties, and upon such other matters as such municipalities by ordinance and said county, by resolution of the fiscal court, respectively, or the Cabinet for ***Health Services***~~[Human Resources]~~ of Kentucky, by regulation, place under the control of said board. The board may charge reasonable fees to sewage treatment plant operators for the regulation and inspection of sewage treatment plants to be paid within twelve (12) months from the time of regulation and inspection.

Section 359. KRS 212.420 is amended to read as follows:

The director of health shall be a physician, qualified as a public health administrator as provided by standards set up by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky and duly qualified and licensed or eligible for license as a medical practitioner in the Commonwealth of Kentucky. He shall receive an annual salary of five thousand dollars ($5,000), payable as other salaries are paid, and shall serve at the pleasure of the board. If said director of health is removed by the board he shall be notified thereof in writing, and before such removal shall become effective said director shall have ten (10) days within which to make a written request for a public hearing in regard thereto. The board shall not be required to hold a hearing unless so requested by said director. If no such request is made said removal shall become effective upon the expiration of said ten (10) day period. If such request is made said public hearing shall be held at the office of the board within ten (10) days after such request is received by the board, and said director shall not be removed until after such hearing has been held, and a decision rendered by the board. The board's decision shall be final.

Section 360. KRS 212.430 is amended to read as follows:

(1) The board shall fix the compensation of all agents and employees of the board, and such compensation shall be as nearly comparable as practicable with the compensations paid and received by corresponding or comparable civil employees of such city or county.

(2) The agents and employees of the board shall be employed and governed, as provided ***in this subsection***[~~herein~~], in accordance with the merit system. For the purpose of governing the employment, appointment, suspension, layoff, and dismissal of employees by the board, and personnel matters relating thereto, any law or laws, or amendments thereof, and any rules and regulations issued pursuant thereto, authorizing, creating and governing any city board or commission empowered to administer and enforce civil service laws, rules and regulations in and for such city are hereby made applicable to the personnel and personnel matters of the board to the extent of and with respect to corresponding and comparable offices, positions and places of employment of and under the board. Such city board or commission is hereby authorized and directed to perform, without compensation from the board, all things necessary to be done to accomplish the aforesaid purpose, including the creation and putting into effect of, and maintaining, a "classified service," in accordance with which the board will be governed in the employment of agents and employees and in the performance of its duties under this section. The director of health of the board shall function as appointing authority in and with respect to said personnel matters of the board. Provided, however, regulations of such city board or commission as may administer the civil service laws, rules and regulations in such city, as applied to employees of the board, shall be not less stringent than those of the merit system of the Cabinet for ***Health Services***[~~human resources~~] of Kentucky.

Section 361. KRS 212.550 is amended to read as follows:

The board shall install and maintain a modern and efficient system of accounting and keep financial records. The board, however, may select and use the finance department of such city to do its financial accounting and make its disbursements in such manner as may be agreed upon by and between the board and the director of finance of said city, which work shall be done by said finance department without compensation from the board. The Auditor of Public Accounts of the Commonwealth of Kentucky, the comptroller and inspector of such city, and the county auditor of such county, respectively, shall have access to the books and the records of the board, and upon the request of the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky said Auditor of Public Accounts, or upon the direction of the legislative body of such city the said comptroller and inspector, or upon the direction of the fiscal court of such county the said county auditor, shall make an audit of the board's accounts and report back thereon.

Section 362. KRS 212.570 is amended to read as follows:

The board shall make an annual report of its fiscal and other operations to the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky, the fiscal court of such county and to the legislative body of such city. Such report shall be filed within sixty (60) days after the close of the board's fiscal year and shall be accompanied by such information, tables and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding fiscal year.

Section 363. KRS 212.600 is amended to read as follows:

All municipalities in any county of this Commonwealth in which county there is located a city of the first class are hereby made subject to the provisions of KRS 212.350 to 212.620, and it shall be the duty of the board created ***in KRS 212.350***[~~herein~~] to make and enforce all reasonable regulations controlling or affecting the health of citizens and residents of said county, including all municipalities therein, in conformity with the provisions of KRS 212.350 to 212.620 and the laws of the Commonwealth of Kentucky, the rules and regulations of the Cabinet for ***Health Services***[~~Human Resources~~] of Kentucky, and the ordinances of said municipalities now or hereafter in effect and not in conflict with the provisions of KRS 212.350 to 212.620. Such regulations shall, as nearly as may be practicable, be uniform throughout the county, both within and without the said municipalities; provided, however, that nothing[~~herein~~] contained ***in this section*** shall be construed to prevent the board from making specific health regulations applying only to such section or sections of said county as may be deemed to require special treatment. The board shall have power and authority to examine into all nuisances, sources of filth, and causes or probable causes of sickness, which may in its opinion be injurious to the health of the residents of such county or of any section or sections thereof.

Section 364. KRS 212.626 is amended to read as follows:

As used in KRS 212.627 to 212.639, unless the context otherwise requires:

(1) "Board" means the urban-county board of health;[~~.~~]

(2) "City-county board of health" means the city, county, or city-county board of health existing in the county on July 1, 1977;[~~.~~]

(3) "City-county department of health" means the city, county, or city-county department of health existing in the county on July 1, 1977;[~~.~~]

(4) "Commissioner" means the commissioner of health for the urban-county health department;[~~.~~]

(5) "County" means any county of the Commonwealth containing any city with a population of over 100,000 at the time of merger creating an urban-county form of government;[~~.~~]

(6) "Department" means the urban-county department of health as created ***in KRS 212.627***[~~herein~~] and its designated agents;[~~.~~]

(7) "Cabinet for ***Health Services***[~~Human Resources~~]" means the Cabinet for ***Health Services;***[~~Human Resources.~~]

(8) "Mayor" means the chief executive officer of any county containing any city with a population of over 100,000 at the time of merger creating an urban-county form of government***; and***[~~.~~]

(9) "Person" means any person, or domestic or foreign individual corporation, government, or governmental subdivision or agency, business, estate, trust, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

Section 365. KRS 212.628 is amended to read as follows:

(1) All real, personal, and mixed property belonging to the city-county board of health or city-county department of health is hereby transferred to the board and the city-county board of health or city-county department of health shall take all the necessary and proper steps to effect the legal transfer of title and possession of all such property to the board.

(2) When the board has been organized and all property transferred as provided under subsection (1) of this section, the board may control, operate, or monitor all matters within the county affecting public health including institutions established to safeguard the public health which may encompass city or county medical facilities, nursing homes, medical care of the indigent, and laboratories and clinics necessary for the promotion of public health and environmental protection and which are required or permitted under the provisions of any act of the General Assembly, under any ordinances, orders, and resolutions of the legislative body of the county, or under any rules or regulations promulgated by the Cabinet for ***Health Services***[~~Human Resources~~], or by the board.

Section 366. KRS 212.636 is amended to read as follows:

(1) The board shall establish the compensation plan for all employees of the department, and such compensation shall be as nearly comparable as practicable with the compensation paid to and received by employees in comparable agencies.

(2) The employees of the department shall be employed and governed in accordance with a merit system. The board shall provide for the recruitment, examination, appointment, promotion, transfer, layoff, removal, discipline, compensation, and welfare of the department's employees by establishing a system of personnel administration based on merit principles and scientific methods whereby the rules and regulations of such system shall not be less stringent than those of the merit system of the Cabinet for ***Health Services***[~~Human Resources~~]. Such system shall include a personnel board of five (5) members appointed by the board for two (2) year terms. The board shall select as members of the personnel board public-spirited citizens of recognized experience in the improvement of public administration and in the impartial selection of efficient public personnel. The personnel board shall be responsible for establishing rules and regulations for the purpose of governing the administration of the personnel system. The commissioner shall function as appointing authority in and with respect to the personnel matters of the board. The board shall have one (1) year from July 1, 1977, to implement such a system.

(3) Notwithstanding the provisions of KRS 61.510 to 61.692 and KRS 78.510 to 78.852, on July 1, 1977, all regular full-time present and future public health employees of the department shall be included within the provisions of the state retirement system.

(4) When the board is qualified and organized as[~~ herein~~] provided ***in KRS 212.626 to 212.639***, all city-county department of health employees at that time shall be transferred to and continued in the service of the department created under KRS 212.626 to 212.639. Provided, however, that any and all of such employees who at that time are in the classified service of the city-county department of health shall be continued in the classified service of the department with the same status they have had in the classified service of the city-county department of health.

Section 367. KRS 212.639 is amended to read as follows:

(1) In order to provide sufficient funds for carrying out the provisions of KRS 212.626 to 212.639, the department shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for ***Health Services***~~[Human Resources]~~ as provided in KRS 212.120, the legislative intent being hereby declared to be that funding from the Cabinet for ***Health Services***~~[Human Resources]~~ be continued at least at the same level and proportion after July 1, 1977, as before its implementation and that modification or alteration of the annual allotment not be made unless for causes enumerated under the provisions of KRS 212.120.

(2) In the event the sums derived from the appropriations, together with funds otherwise available from any other source to the board during any fiscal year, for its necessary expenditures in the maintenance and operation of the board, exceed its need for such expenditures during such fiscal year, any such unexpended funds at the end of the fiscal year shall be carried forward by the board to be used in paying for its operating costs and expenses for its ensuing year.

(3) The fiscal year of the board shall begin on July 1 of each year and shall end on June 30 of the following year.

(4) In a timely fashion governed by the requirements of the various funding sources such as the Cabinet for ***Health Services***~~[Human Resources]~~, urban-county government, and any and all other sources, the commissioner shall prepare for board approval a budget setting forth the total amounts of funds available from all sources for expenditures during the board's fiscal year, and setting forth the estimated expenditures of the board for the fiscal year.

(5) The board shall install and maintain a system of accounting and shall file an annual report of its fiscal and other operations to the Cabinet for ***Health Services***~~[Human Resources]~~ and to the legislative body of the urban-county government after the close of the board's fiscal year. The annual report shall be accompanied by such information, tables, and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding year.

Section 368. KRS 212.660 is amended to read as follows:

(1) After the establishment of a city-county health department as provided in KRS 212.640, the city-county board of health shall appoint a health officer, subject to the approval of the Cabinet for ***Health Services***~~[Human Resources]~~. Other persons necessary for the work of the city-county health department shall be appointed in the same manner and subject to the same conditions as are other county health department employees.

(2) Any city health department employee who is covered by a pension fund for civil service employees, as authorized by KRS 90.400 or any other section of the Kentucky Revised Statutes, prior to the consolidation of the city-county health department, may elect to continue such coverage thereafter in lieu of electing coverage under the Kentucky Employees Retirement System, KRS 61.510 to 61.705; provided, however, that all new employees of such consolidated city-county health department shall thereafter be covered by the Kentucky Employees Retirement System.

Section 369. KRS 212.710 is amended to read as follows:

Any city-county department of health established under KRS 212.350 or 212.640 shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for ***Health Services***~~[Human Resources]~~ as provided in KRS 212.120.

Section 370. KRS 212.725 is amended to read as follows:

If, after the establishment of the public health taxing district, as provided in KRS 212.720, the tax levying authorities of the district, in the opinion of the county or city-county board of health, do not appropriate an amount sufficient to meet the public health needs of the county or the city-county health department or do not appropriate an amount sufficient to meet the standards prescribed by the Cabinet for ***Health Services***~~[Human Resources]~~ for health departments, the county or city-county board of health, acting as the governing body of the taxing district, shall with the approval of the Cabinet for ***Health Services***~~[Human Resources]~~, impose by resolution a special ad valorem public health tax in such amount that it deems sufficient, but not in excess of the maximum amount approved by the electorate as provided for in KRS 212.720. The fiscal court shall upon receipt of a duly certified copy of said resolution, include in the next county ad valorem tax levy said special public health tax imposed by the county or city-county board of health which shall be in addition to all other county ad valorem taxes. Said special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health to be used solely for the maintenance and operation of the county or city-county health department.

Section 371. KRS 212.755 is amended to read as follows:

(1) If, after the establishment of the public health taxing district as provided for in this section and KRS 212.750, the tax levying authorities of the district, in the opinion of the county or city-county board of health, do not appropriate an amount sufficient to meet the public health needs of the county or the city-county health department or do not appropriate an amount sufficient to meet the standards prescribed by the Cabinet for ***Health Services***~~[Human Resources]~~ for local health departments, the county or city-county board of health, acting as the governing body of the taxing district shall, with the approval of the Cabinet for ***Health Services***~~[Human Resources]~~, request the fiscal court to impose by resolution a special ad valorem public health tax in such amount that it deems sufficient, but not in excess of four cents ($0.04) per one hundred dollars ($100) of full value assessed valuation. The fiscal court may upon receipt of a duly certified copy of

said resolution, include in the next county ad valorem tax levy said special public health tax imposed by the county or city-county board of health which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special public health tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the county or city-county board of health to be used solely for the maintenance and operation of the county, city-county, or district health department and as provided in KRS 212.740.

(2) Public health taxing districts heretofore organized pursuant to the provisions of KRS 212.720 to 212.740 or organized pursuant to this section and KRS 212.750 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Chapter 2, 1965 First Extraordinary Session of the General Assembly; provided, however, that no public health taxing district shall impose a rate higher than four cents ($0.04) per one hundred dollars ($100) of full value assessed valuation.

Section 372. KRS 212.780 is amended to read as follows:

As used in KRS 212.780 to 212.794 the following definitions shall apply:

(1) "Board" means independent district board of health as created in KRS 212.780 to 212.794***;***~~[.]~~

(2) "Cabinet" means Cabinet for ***Health Services;***~~[Human Resources.]~~

(3) "County board of health" means a local board of health as defined by KRS 212.640 or 212.020***;***~~[.]~~

(4) "Department" means independent district department of health created in KRS 212.780 to 212.794***;***~~[.]~~

(5) "Director" means the district director of health***;***~~[.]~~

(6) "District board of health" means the district board of health as established pursuant to KRS 212.810 to 212.930***;***~~[.]~~

(7) "District department of health" means the district department of health as established pursuant to KRS 212.810 to 212.930***;***~~[.]~~

(8) "Independent district board of health" means the independent district board of health as created in KRS 212.780 to 212.794***;***~~[.]~~

(9) "Judge/executive" means the county judge/executive of any county fiscal court as defined in KRS 67.700 to 67.710***; and***~~[.]~~

(10) "Metropolitan statistical area" (MSA) means metropolitan statistical area as defined by the United States Bureau of the Census, United States Department of Commerce.

Section 373. KRS 212.830 is amended to read as follows:

As used in 212.810 to 212.930, unless the content requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~; ***and***

(2) "Health officer" means the chief administrative officer of the district health department.

Section 374. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class, an urban-county government, or which are part of an interstate metropolitan statistical area where the Kentucky population of the metropolitan statistical area exceeded two hundred fifty thousand (250,000) people on July 1, 1989, a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per fifteen thousand (15,000) population or fraction thereof, which shall include the mayor, city manager, or the designee of the city manager of each city of the second class as an ex officio voting member, except that the total number of members from any county in a district shall not exceed seven (7) members.

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the county or city-county boards of health from the membership of each county or city-county board of health.

(a) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring.

(b) Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county. At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the district board shall be doctors of medicine or osteopathy qualified, licensed, and practicing in the Commonwealth, and there shall be at least one (1) qualified, licensed, and practicing registered nurse, one (1) qualified, licensed, and practicing dentist, one (1) qualified licensed engineer engaged in the practice of civil or sanitary engineering, one (1) qualified, licensed, and practicing optometrist, and one (1) qualified, licensed, and practicing veterinarian, when available, among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(c) The chairman of the county or city-county board of health shall inform the secretary with forty-five (45) days of receipt of this notification of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the time the secretary has certified their eligibility to serve on the board.

(3) If a vacancy exists upon the district board, the vacancy shall be filled in a manner consistent with subsection (2) of this section, with the appointed member to fill the vacant seat coming from the county in which the vacancy occurs and the appointed member resides. If the term of a member on the county board of health expires or the member cannot complete the term on the county board, the seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on December 31 or until their successors are appointed. The terms of the first appointments shall be staggered so that members whose terms expire on June 30, 1992, shall be replaced with appointed members whose terms expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall be replaced with appointed members whose terms expire on December 31, 1995.

(5) The secretary shall remove any appointed member who fails to attend three (3) consecutive scheduled meetings.

Section 375. KRS 212.870 is amended to read as follows:

(1) A district health officer may employ and fix the compensation of, by contract or otherwise, subject to the approval of the cabinet all medical, administrative, technical, clerical, professional and other employees necessary for the maintenance and operation of the district health department in accordance with standards and merit system provisions prescribed by the cabinet.

(2) In the absence of a district health officer the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or his duly appointed representative shall serve as health officer for the district health department.

(3) All employees of county health departments which join a district health department shall become employees of the district health department.

Section 376. KRS 212.880 is amended to read as follows:

District health departments shall:

(1) Administer and enforce in the district, except as otherwise provided by law, all applicable public health laws of the Commonwealth and all rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ and the rules and regulations of the district board of health;

(2) With the advice of the district board of health and the cabinet, formulate, promote, establish and execute policies, plans and programs to safeguard the health of the people; ***and***

(3) Make such statistical or other studies and reports relating to the activities of the cabinet as may be deemed expedient or as may be required by the district board of health or the cabinet.

Section 377. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) "Dead body" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this chapter for registration by the Office of Vital Statistics;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domicilary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after the expulsion or extraction, breathes, or shows any other evidence of life such

as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the Office of Vital Statistics and the incorporation of vital records provided for in this chapter into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this chapter;

(12) "Secretary" means the secretary for ***health services***~~[human resources]~~;

(13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage, and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this chapter;

(17) "Commission" means the Commission for Children with Special Health Care Needs;

(18) "Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels; ***and***

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

Section 378. KRS 213.016 is amended to read as follows:

There shall be established in the Department for ***Public*** Health~~[Services]~~, Cabinet for ***Health Services***~~[Human Resources]~~, a vital statistics program which shall maintain and operate the only official system of vital statistics in the Commonwealth.

Section 379. KRS 213.021 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall adopt administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the provisions of this chapter.

Section 380. KRS 213.026 is amended to read as follows:

The secretary for ***health services***~~[human resources]~~ shall designate the state registrar of vital statistics, hereinafter referred to as "state registrar," in accordance with merit system laws and administrative regulations.

Section 381. KRS 213.036 is amended to read as follows:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall, upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for ***Health Services***~~[Human Resources]~~. The local registrar shall transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the state registrar. When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

Section 382. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within

ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for ***in this section and in KRS 213.051***[~~herein~~], or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth or the hearing risk certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written description of the rights and responsibilities of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) Require the voluntary acknowledgment of paternity obtained through the hospital based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment of paternity form shall be the only document having the same weight and authority as a judgment of paternity.

(5) The Cabinet for ***Health Services***[~~Human Resources~~] shall:

(a) Provide to all public and private birthing hospitals in the state written materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 383. KRS 213.047 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall pay the sum of ten dollars ($10) to an institution for each completed affidavit of paternity form returned to the local registrar by the institution, pursuant to KRS 213.046, limited to the appropriated funds for the purpose of KRS 213.046.

Section 384. KRS 213.051 is amended to read as follows:

(1) The person who assumes the custody of a live-born infant of unknown parentage shall report on a form and in a manner prescribed by the state registrar within ten (10) days to the Cabinet for ***Health Services***[~~Human Resources~~] the following information:

(a) The date and place of finding;

(b) Sex, color or race, and approximate birth date of child;

(c) Name and address of the person or institution with which the child has been placed for care;

(d) Name given to the child by the custodian of the child; and

(e) Other data as required by the state registrar to complete a birth certificate.

(2) The place where the child was found shall be entered as the place of birth.

(3) A report registered under this section shall constitute the certificate of birth for the child.

(4) If the child is identified and a certificate of birth is found or obtained, the report registered under this section shall be placed in a special file and shall not be subject to inspection except upon order of a Circuit Court.

Section 385. KRS 213.066 is amended to read as follows:

(1) For each adoption decreed by a Circuit Court in the Commonwealth, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the state registrar. The report shall include the facts necessary to establish a new certificate of birth of the person adopted ***and***~~[,]~~ identify the order of adoption, and be certified by the clerk of the court.

(2) Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The Department for Social Services or any other agency or person having knowledge of the facts shall supply the court with the additional information necessary to complete the report. The provision of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(3) If an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof which shall include the facts necessary to identify the original adoption report and the facts amended in the adoption decree necessary to properly amend the birth record.

(4) Not later than the fifteenth day of each calendar month or more frequently, the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulments of adoption, and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

(5) If the state registrar receives a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, the state registrar shall forward the report to the state registrar in the state of birth. If the birth occurred in a foreign country and the child was not a citizen of the United States at the time of birth, the state registrar shall prepare a record of foreign birth as provided by KRS 213.056(2). If the child was born in Canada, the state registrar shall also send a copy of the report of adoption, annulment of adoption, or amendment of a decree of adoption to the appropriate registration authority in that country.

Section 386. KRS 213.076 is amended to read as follows:

(1) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.

(a) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

(b) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.

(c) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.

(d) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.

(2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require

additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.

(3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, the coroner shall complete and sign the certificate within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.

(4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.

(5) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Office of Vital Statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

(6) The Office of Vital Statistics shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.

(7) Three (3) free verification of death statements shall be provided to the funeral director by the Office of Vital Statistics for every death in the Commonwealth of Kentucky.

(8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for ***Health Services***[~~Human Resources~~] to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for ***Health Services***[~~Human Resources~~] and the local health department. The Cabinet for ***Health Services***[~~Human Resources~~] shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report of death form as prescribed by the Cabinet for ***Health Services***[~~Human Resources~~]. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

(9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.

(10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for ***Public*** Health[~~ Services~~] deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.

(11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.

(12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time

and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.

(13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Section 387. KRS 213.111 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 311.300 to 311.350, any hospital or institution of higher learning may make application to any medical school incorporated within the Commonwealth for the loan of unclaimed whole dead bodies or parts thereof for educational or scientific purposes if the approval of the Cabinet for ***Health Services***~~[Human Resources]~~ has first been obtained. Approval shall be granted or denied by the Cabinet for ***Health Services***~~[Human Resources]~~ on the basis of proposed use, need, qualification of personnel, and adequacy of equipment and facilities.

(2) A special transit permit shall be obtained for the transportation of the dead bodies or parts thereof from the state registrar. Transportation and the ultimate burial of all the bodies or parts thereof shall be in accordance with the provisions of this chapter and KRS 311.340.

(3) All approved recipients shall keep a record of all bodies received by them and comply with all other regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 388. KRS 213.116 is amended to read as follows:

(1) The cabinet shall perform the collection, indexing, tabulation, and registration of data relating to marriages, divorces, and annulments. The secretary shall adopt administrative regulations to carry out the provisions of this section.

(2) Each county clerk shall on or before the tenth day of each month furnish to the state registrar, from the marriage licenses issued and the marriage certificates returned to the clerk during the previous month, the information required by the Cabinet for ***Health Services***~~[Human Resources]~~ upon forms prescribed and furnished by the cabinet. The county clerk shall collect from the applicants for a marriage license at the time the license is issued one dollar ($1), which shall constitute the clerk's fee for forwarding the required information to the state registrar.

(3) A marriage record not filed within the time prescribed by this section may be registered in accordance with administrative regulations adopted by the cabinet.

(4) In all actions for dissolution of marriage, the petitioner, or the petitioner's attorney or legal representative, shall file, concurrently with the petition, the information requested on forms prescribed and furnished by the Cabinet for ***Health Services***~~[Human Resources]~~. The provisions of the information shall be prerequisite to the issuance of a final decree in the matter by the court.

(5) Each Circuit Court clerk shall, within forty-five (45) days after entry of a final judgment of divorce, absolute or limited, or annulment of marriage, complete the form prescribed and furnished by the Cabinet for ***Health Services***~~[Human Resources]~~ and forward it to the state registrar.

Section 389. KRS 213.131 is amended to read as follows:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this chapter, by regulation, or by order of a court of competent jurisdiction. Administrative regulations adopted by the cabinet shall provide for adequate standards of security and confidentiality of vital records and shall conform to subsection (4) of this section.

(2) The state registrar shall prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request.

(3) The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request.

(4) The Cabinet for ***Health Services***~~[Human Resources]~~ may authorize by regulation the disclosure of information contained in vital records for research and official administrative purposes, if:

(a) All information identifying persons named on the certificate is withheld or removed;

(b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

(c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(5) If one hundred (100) years have elapsed after the date of birth, or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for continued safekeeping of the records.

Section 390. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed nine dollars ($9) to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for ***Health Services or the Cabinet for Families and Children***[~~Human Resources~~] for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 391. KRS 213.161 is amended to read as follows:

(1) In order to obtain information which may be useful to research organizations studying the causes and incidence of the sudden infant death syndrome, a program is hereby established in the Cabinet for ***Health Services***[~~Human Resources~~]. The purpose of this program shall be to obtain factual information concerning the characteristics, incidence, and distribution of the sudden infant death syndrome throughout the Commonwealth and to provide a means of public education concerning any research findings which may lead to the possible means of prevention, early identification, and treatment of children susceptible to the sudden infant death syndrome.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause as determined by a physician or a coroner, an autopsy with the written approval of the parents or legal guardian of the child shall be performed within forty-eight (48) hours and the results reported to the cabinet and to the parents or legal guardian of the child.

(3) In order to implement the provisions of this section, the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall:

(a) Promulgate administrative regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths which is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution, and characteristics of cases of the sudden infant death syndrome;[~~ and~~]

(b) Collect such factual information from physicians, coroners, medical examiners, hospitals, and public health officials who have examined any child known or believed to have the sudden infant death syndrome;[~~ and~~]

(c) Make such factual information available to physicians, coroners, medical examiners, hospitals, public health officials, and educational and institutional organizations conducting research as to the causes and incidence of the sudden infant death syndrome;[~~ and~~]

(d) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of the sudden infant death syndrome; and

(e) Conduct educational programs to inform the general public of any research findings of educational and institutional organizations which may lead to the possible means of prevention, early identification and treatment of the sudden infant death syndrome.

Section 392. KRS 214.010 is amended to read as follows:

Every physician shall report all diseases designated by regulation of the Cabinet for ***Health Services***[~~Human Resources~~] as reportable which are under his special treatment to the local board of health of his county, and every head of a family shall report any of said diseases, when known by him to exist in his family, to the local board or to some member thereof in accordance with the regulations of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 393. KRS 214.020 is amended to read as follows:

When the Cabinet for ***Health Services***[~~human resources~~] believes that there is a probability that any infectious or contagious disease will invade this state, it shall take such action and adopt and enforce such rules and regulations as it deems efficient in preventing the introduction or spread of such infectious or contagious disease or diseases within this state, and to accomplish these objects shall establish and strictly maintain quarantine and isolation at such places as it deems proper.

Section 394. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis and immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for ***Health Services***~~[Human Resources]~~. Additional immunizations may be required by the Cabinet for ***Health Services***~~[Human Resources]~~ through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis tested, examined, and treated according to administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) Each child entering the public schools shall have proof of having been tested for tuberculosis prior to enrollment. Following the first year of school, upon an epidemiological determination made by the state or regional health officer in accordance with administrative regulations promulgated by the Cabinet for ***Health Services***~~[Human Resources]~~, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis tested, examined and treated according to administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) For each child cared for in a day care center, certified family child care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

(5) Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day care centers, certified family child care homes, or other licensed facilities which care for children.

Section 395. KRS 214.036 is amended to read as follows:

Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require the testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his attending physician, such testing or immunization would be injurious to the child's health. Nor shall KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 be construed to require the immunization of any child whose parents are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child on religious grounds. Provided, however, that in the event of an epidemic in a given area, the Cabinet for ***Health Services***~~[Human Resources]~~ may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic.

Section 396. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~. Testing, recording, and reporting of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or his designee. The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism.

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

Section 397. KRS 214.160 is amended to read as follows:

(1) Every physician and every other person legally permitted to engage in attendance upon a pregnant woman in this state shall take or cause to be taken from the woman a specimen of blood for serological test for syphilis as soon as he is

engaged to attend the woman and has reasonable grounds for suspecting that pregnancy exists. If the woman is in labor at the time the diagnosis of pregnancy is made, which may make it inadvisable to obtain a blood specimen at that time, the specimen shall be obtained within ten (10) days after delivery. The specimen of blood shall be submitted to the laboratory of the Cabinet for ***Health Services***~~[Human Resources]~~ or a laboratory approved by the cabinet, for the purpose of having made a serological test for syphilis. The test shall be of a type approved by the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall, as often as necessary, publish a list of the five (5) most frequently abused substances, including alcohol, by pregnant women in the Commonwealth. Any physician and any other person legally permitted to engage in attendance upon a pregnant woman in this state may perform a screening for alcohol or substance dependency or abuse, including a comprehensive history of such behavior. Any physician may administer a toxicology test to a pregnant woman under the physician's care within eight (8) hours after delivery to determine whether there is evidence that she has ingested alcohol, a controlled substance, or a substance identified on the list provided by the cabinet, or if the woman has obstetrical complications that are a medical indication of possible use of any such substance for a nonmedical purpose.

(3) Any physician or person legally permitted to engage in attendance upon a pregnant woman may administer to each newborn infant born under that person's care a toxicology test to determine whether there is evidence of prenatal exposure to alcohol, a controlled substance, or a substance identified on the list provided by the Cabinet for ***Health Services***~~[Human Resources]~~, if the attending person has reason to believe based on a medical assessment of the mother or the infant, that the mother used any such substance for a nonmedical purpose during the pregnancy.

(4) The circumstances surrounding any positive toxicology finding shall be evaluated by the attending person to determine if abuse or neglect of the infant, as defined under KRS 600.020(1), has occurred and whether investigation by the Cabinet for ***Health Services***~~[Human Resources]~~ is necessary.

(5) No prenatal screening for alcohol or other substance abuse or positive toxicology finding shall be used as prosecutorial evidence.

(6) No person shall conduct or cause to be conducted any toxicological test pursuant to this section on any pregnant woman without first informing the pregnant woman of the purpose of the test.

Section 398. KRS 214.170 is amended to read as follows:

Every physician or other person who takes or causes to be taken from a woman in pregnancy, or suspected pregnancy, a blood specimen for serological tests for syphilis, shall identify the specimen as being from a pregnant woman submitting it for tests. The laboratory shall report the result of the test if reactive on forms prepared and furnished by the Cabinet for ***Health Services***~~[Human Resources]~~ to the Cabinet for ***Health Services***~~[Human Resources]~~ not later than one (1) week after the examination is made.

Section 399. KRS 214.175 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ may conduct periodic anonymous surveys to determine the prevalence within the Commonwealth of drug and alcohol use during pregnancy. These periodic surveys may include, but are not limited to, toxicology tests to determine the presence of alcohol, controlled substances, or other drugs which have not been prescribed due to medical necessity.

(2) All hospitals and any other health facilities licensed pursuant to KRS Chapter 216B which provide for obstetrical services, including delivery of newborn infants, shall, as a condition of licensure, participate in any periodic surveys conducted by the Cabinet for ***Health Services***~~[Human Resources]~~ for the purposes of determining the prevalence of alcohol or other substance abuse among pregnant women and newborn infants.

(3) Any surveys conducted pursuant to this section shall be conducted according to guidelines established by the Cabinet for ***Health Services***~~[Human Resources]~~. The toxicology test may be performed without a physician's order and without patient or parental consent. For the purpose of this section any toxicology test performed shall be considered medically necessary.

(4) The results of any individual toxicology tests performed pursuant to this section shall remain confidential and shall only be released to the Cabinet for ***Health Services***~~[Human Resources]~~. Any results shall be collected and compiled in aggregate form without the name of the hospital, patient, or other means of identifying the individual subject of the test.

(5) No test result obtained pursuant to this section shall be admissible in any court or other hearing as evidence in any proceeding, criminal or civil, against the individual subject of the test.

(6) No hospital shall incur any liability, except for negligence, for performing any test required or authorized under KRS 214.160 and 214.175 or for reporting the result of the test pursuant to any administrative regulation promulgated by the Cabinet for ***Health Services***~~[Human Resources]~~ under KRS Chapter 13A in accordance with this section.

(7) The cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 400. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health care services, there is no requirement that a health care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person, who has obtained or has knowledge of a test result pursuant to this section, shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312 or 313 to register with the cabinet if he does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop a program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 401. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, alcohol or other drug abuse or addiction and may advise, prescribe for and treat such minor regarding venereal disease, alcohol and other drug abuse or addiction, contraception, pregnancy or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case, the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

(2) Any physician may provide outpatient mental health counseling to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.

(3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.

(4) Medical, dental, and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

(5) The consent of a minor who represents that he may give effective consent for the purpose of receiving medical, dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.

(6) The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.

(7) Except as otherwise provided in this section, parents, the Cabinet for ***Health Services***[~~Human Resources~~], or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

Section 402. KRS 214.310 is amended to read as follows:

(1) Any police officer or member of any municipal board of health, or other city official, who has reason to believe that the provisions of KRS 214.280 to 214.300 have been or are being violated, shall give notice to the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) Any individual who has reason to believe that the provisions of KRS 214.280 to 214.300 have been or are being violated may present the relevant facts to the board of health or any of its deputies. It shall then be the duty of the board of health to make an investigation of the facts, and if the board is of the opinion that there is or has been a violation it shall prosecute the person guilty thereof.

(3) Any individual may institute proceedings to enforce KRS 214.280 to 214.300 and to punish violations of their provisions.

Section 403. KRS 214.410 is amended to read as follows:

(1) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~; and

(2) "Sexually transmitted disease" means syphilis, gonorrhea, chancroid, granuloma inguinale, genital herpes, nongonococcal urethritis, mucopurulent cervicitis, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, chlamydia trachomatis infections and any other sexually transmitted disease designated by the cabinet under the provisions of KRS Chapter 13A.

Section 404. KRS 214.420 is amended to read as follows:

(1) The General Assembly hereby declares that confidentiality is essential for the proper administration and operation of sexually transmitted disease control activities in this state and that the principle of confidentiality must remain inviolate.

(2) All information, records and reports in the possession of local health departments or the Cabinet for ***Health Services***~~[Human Resources]~~ and which concern persons infected with or suspected of being infected with or tested for or identified in an epidemiologic investigation for sexually transmitted disease are hereby declared to be strictly confidential and only personnel of local health departments and the Cabinet for ***Health Services***~~[Human Resources]~~ who are assigned to sexually transmitted disease control activities shall have access to such information, records and reports.

(3) Nothing in this section shall be construed as preventing:

(a) The release of medical information to the physician retained by the person infected with or suspected of being infected with a sexually transmitted disease;

(b) The release of medical or epidemiological data or information for statistical purposes in a manner so that no individual person can be identified;

(c) The release of medical information with the written consent of all persons identified in the information to be released;

(d) The release of medical or epidemiological information necessary to enforce the provision of the rules and regulations of the Cabinet for ***Health Services***~~[Human Resources]~~, issued pursuant to KRS Chapter 13A, relating to the control and treatment of sexually transmitted disease; and

(e) The release of medical information made to medical personnel in a medical emergency to the extent necessary to protect the health or life of the named party.

Section 405. KRS 214.452 is amended to read as follows:

The following policies shall apply to blood establishments and to donors of blood:

(1) All blood establishments within the Commonwealth shall be licensed by the United States Food and Drug Administration and remain in compliance with all applicable federal regulations. The Cabinet for ***Health Services***~~[Human Resources]~~ shall, under administrative regulations promulgated pursuant to KRS Chapter 13A, establish fees necessary to cover the cost of and adhere to a schedule for regular inspection, by the Office of the Inspector General of the Cabinet for ***Health Services***~~[Human Resources]~~, of all blood establishments within the Commonwealth to ascertain whether each blood establishment is licensed and in compliance with KRS 214.450 to 214.464 and KRS 214.468. The Office of the Inspector General shall commence its inspection program of blood establishments no later than September 1, 1994. The Office of the Inspector General of the Cabinet for ***Health Services***~~[Human Resources]~~ shall annually, by no later than September 1, submit a written report to the Interim Joint Committee on Health and Welfare on the compliance of blood establishments with KRS 214.450 to 214.464 and KRS 214.468.

(2) All blood establishments shall test blood for the human immunodeficiency virus and for any known causative agent for any blood-borne communicable disease, using tests approved and required, for purposes of blood donation, by the United States Food and Drug Administration.

(3) It shall be the duty of the administrator of any blood establishment which collects blood for the purpose of distributing to another health service, health facility, or health care provider the blood for transfusion to:

(a) Secure donor consent and a signed written risk factor history and donor consent form for each potential paid or volunteer donor for the purpose of determining if the potential donor is at high risk for infection with the human immunodeficiency virus, or has tested confirmatory positive for infection with the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has tested confirmatory positive for infection with any causative agent for acquired immune deficiency syndrome recognized by the United States Centers for Disease Control; or has a blood-borne communicable disease;

(b) Provide a means for a potential donor to self-elect not to donate blood;

(c) Refuse donation or sale of blood by persons at high risk for infection with the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have tested confirmatory positive for infection with the human immunodeficiency virus, or who have a blood-borne communicable disease;

(d) Post a sign in the blood establishment which is visible to all potential donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested confirmatory positive for infection with the human immunodeficiency virus (HIV), or who have a blood-borne communicable disease or who have one (1) or more risk factors for the human immunodeficiency virus as determined by the United States Centers for Disease Control, are prohibited by law from donating or selling blood. Persons violating the law are guilty of a Class D felony. ASK STAFF OF THIS BLOOD ESTABLISHMENT."

(4) The provisions of this section shall not be construed to impose requirements which are in conflict with donor eligibility requirements set out in United States Food and Drug Administration or American Association of Blood Banks standards.

Section 406. KRS 214.464 is amended to read as follows:

(1) (a) Untested blood may be transfused only in an emergency situation in which the attending physician determines a patient is in imminent danger of death or serious physical injury and no tested and labeled blood as set forth under KRS 214.458 is readily available to alleviate the emergency situation; provided, however, that the attending physician shall, obtain specific prior consent for the transfusion from the patient in the emergency situation or if the patient's condition renders the patient incapable of giving consent, seek from the next of kin of the patient, if available, prior informed consent to transfuse any untested blood. For purposes of this section, the patient's "next of kin" means, in the following order;

1. The spouse of the patient;
2. If there is none, then the mother or father of the patient;
3. If there is none, then any adult son or daughter of the patient; or
4. If there is none, then any brother or sister of the patient.

(b) Physical evidence of consent shall become a part of the patient's permanent medical record.

(2) Blood establishments may release untested blood, collected under standards set forth in KRS 214.452, at the request of a physician, or health facility, or health service in an emergency as provided under this section. If blood has not been tested, the test shall be performed as soon after the transfusion as possible. If the blood subsequently tests positive for any blood-borne communicable disease, the patient's attending physician shall be immediately notified. The attending physician shall, in turn, notify the patient of the test results. The patient or next of kin shall indicate notification of receipt of the test results and any offer of treatment or referral to another health care provider on a form provided by the health facility or health service and approved by the Cabinet for ***Health Services***[~~Human Resources~~].

Section 407. KRS 214.550 is amended to read as follows:

As used in KRS 214.552 to 214.556:

(1) "Department" means the Department for ***Public*** Health[~~ Services~~] of the Cabinet for ***Health Services***[~~Human Resources~~].

(2) "Fund" means the breast cancer screening fund.

(3) "Screening" means the conduct of screening mammography for the purpose of ascertaining the existence of any physiological abnormality which might be indicative of the presence of disease.

Section 408. KRS 214.554 is amended to read as follows:

(1) There is[~~ hereby~~] established within the department a Breast Cancer Screening Program for the purposes of:

(a) Reducing morbidity and mortality from breast cancer in women through early detection and treatment; and

(b) Making breast cancer screening services of high quality and reasonable cost available to women of all income levels throughout the Commonwealth and to women whose economic circumstances or geographic location limits access to breast cancer screening facilities.

(2) Services provided under the Breast Cancer Screening Program may be undertaken by private contract for services or operated by the department and may include the purchase, maintenance, and staffing of a truck, a van, or any other vehicle suitably equipped to perform breast cancer screening. The program may also provide referral services for the benefit of women for whom further examination or treatment is indicated by the breast cancer screening.

(3) The department may adopt a schedule of income-based fees to be charged for the breast cancer screening. The schedule shall be determined to make screening available to the largest possible number of women throughout the

Commonwealth. The department shall, where practical, collect any available insurance proceeds or other reimbursement payable on behalf of any recipient of a breast cancer screening under KRS 214.552 to 214.556 and may adjust the schedule of fees to reflect insurance contributions. All fees collected shall be credited to the fund.

(4) The department may accept any grant or award of funds from the federal government or private sources for carrying out the provisions of KRS 214.552 to 214.556.

(5) For the purpose of developing and monitoring the implementation of guidelines for access to and the quality of the services of the Breast Cancer Screening Program, there is hereby created a Breast Cancer Advisory Committee to the commissioner of the Department for ***Public*** Health~~[Services]~~ which shall include the directors of the James Graham Brown Cancer Center and the Lucille Parker Markey Cancer Center, the director of the Kentucky Cancer Registry, one (1) representative of the Kentucky Office of Rural Health appointed by the Governor, one (1) representative of the Kentucky Commission on Women appointed by the Governor, and at least three (3) women who have had breast cancer and who shall be appointed by the Governor.

(6) The commissioner of the Department for ***Public*** Health~~[Services]~~, in consultation with the Breast Cancer Advisory Committee, shall annually, but no later than July 1 of each year, make a report to the Governor, the Legislative Research Commission, and the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare on the:

(a) Implementation and outcome from the Breast Cancer Screening Program including, by geographic region, numbers of persons screened, numbers of cancers detected, referrals for treatment, and reductions in breast cancer morbidity and mortality;

(b) Development of quality assurance guidelines, including timetables, for breast cancer screening under this section, and monitoring of the manner and effect of implementation of those guidelines; and

(c) Funds appropriated, received, and spent for breast cancer control by fiscal year.

Section 409. KRS 214.556 is amended to read as follows:

(1) There is hereby established within the Kentucky cancer program the Kentucky Cancer Registry and the cancer patient data management system for the purpose of providing accurate and up-to-date information about cancer in Kentucky and facilitating the evaluation and improvement of cancer prevention, screening, diagnosis, therapy, rehabilitation, and community care activities for citizens of the Commonwealth. The cancer patient data management system shall be administered by the Lucille Parker Markey Cancer Center.

(2) Each licensed health facility which provides diagnostic services, or diagnostic services and treatment, or treatment to cancer patients shall report to the Kentucky Cancer Registry, through the cancer patient data management system and in a format prescribed by the Kentucky Cancer Registry, each case of cancer seen at that health facility. Failure to comply may be cause for assessment of an administrative fine for the health facility, the same as for violation of KRS 216B.250.

(3) Each health facility shall grant to the cancer registry access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or status of any identified cancer patient. Hospitals actively participating and enrolled in the cancer patient data management system of the Kentucky Cancer Program as of July 13, 1990, shall be considered to be in compliance with this section. The Lucille Parker Markey Cancer Center shall provide staff assistance in compiling and reporting required information to hospitals which treat a low volume of patients.

(4) No liability of any kind or character for damages or other relief shall arise or be enforced against any licensed health facility by reason of having provided the information or material to the Kentucky Cancer Registry pursuant to the requirements of this section.

(5) The identity of any person whose condition or treatment has been reported to the Kentucky Cancer Registry shall be confidential, except that:

(a) The Kentucky Cancer Registry may exchange patient-specific data with any other cancer control agency or clinical facility for the purpose of obtaining information necessary to complete a case record, but the agency or clinical facility shall not further disclose such personal data; and

(b) The Kentucky Cancer Registry may contact individual patients if necessary to obtain follow-up information which is not available from the health facility.

(6) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section and any findings or conclusions resulting from those studies shall be privileged.

(7) The Kentucky Cancer Registry shall make periodic reports of its data and any related findings and recommendations to the Legislative Research Commission, the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare, the Governor, the Cabinet for ***Health Services***~~[Human Resources]~~, the reporting health facility and other appropriate governmental and nongovernmental cancer control agencies whose intent it is to reduce the incidence, morbidity, and mortality of cancer. The Kentucky Cancer Registry may conduct analyses and studies as are indicated to advance cancer control in the Commonwealth.

Section 410. KRS 214.605 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall establish a program to educate the public about the threat of acquired immunodeficiency syndrome.

(2) The Acquired Immunodeficiency Syndrome Education Program shall:

(a) Be designed to reach all segments of the Commonwealth's population;

(b) Contain special components designed to reach minority groups within the state;

(c) Impart knowledge to the public about methods of transmission of acquired immunodeficiency syndrome and methods of prevention;

(d) Educate the public about transmission risks in social, employment, and educational situations;

(e) Educate health care workers and health facilities' employees about methods of transmission and prevention in their unique workplace environments;

(f) Contain special components designed to reach persons who may frequently engage in behaviors placing them at a high risk for acquiring acquired immunodeficiency syndrome;

(g) Provide information and consultation to state agencies to educate all state employees;

(h) Provide information and consultation to state and local agencies to educate law enforcement and correctional personnel and inmates;

(i) Provide information and consultation to local governments to educate local government employees;

(j) Make information available to private employers and encourage them to distribute this information to their employees; and

(k) Contain special components which emphasize appropriate behavior and attitude change.

(3) The program designed by the Cabinet for ***Health Services***~~[Human Resources]~~ shall utilize all appropriate forms of the media and shall identify sources of educational materials that can be used by businesses, schools, and health care providers in the regular course of their business.

(4) The department may contract with other persons in the design, development, and distribution of the components of the education program.

Section 411. KRS 214.610 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall approve appropriate educational courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 312, 313, 314, 315, 320, 327, 333, 335 and emergency medical technicians licensed pursuant to KRS Chapter 211.

(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.

Section 412. KRS 214.620 is amended to read as follows:

(1) The boards of the professions in KRS 311.450, 311.571, 311.601, 312.085, 312.175, 313.040, 313.080, 313.290, 313.305, 314.041, 314.042, 314.051, 314.073, 315.050, 315.065, 320.250, 320.280, 327.050, 333.100, 333.190, 335.080, 335.090, 335.100, and 335.150, and the Cabinet for ***Health Services***~~[Human Resources]~~ shall begin planning for the implementation of those sections listed above which require, as a part of initial licensure, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of those sections listed above and shall also include developing administrative regulations for the implementation of the licensure requirements.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall develop instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for ***Health Services***~~[Human Resources]~~ shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.

(3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees of health facilities defined in KRS 216B.015 shall have completed an educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and

attitude change except for those employees who shall have completed such a course as required for their professional licensure or upon evidence that the employee received such a course from another health facility where the employee was previously employed.

(4) Information on the human immunodeficiency virus infection shall be presented to any person who receives treatment at any hospital, however named, skilled nursing facilities, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, and emergency care centers licensed pursuant to KRS Chapter 216B. The information shall include, but not be limited to, methods of transmission and prevention and appropriate behavior and attitude change.

Section 413. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests, is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health care services, there is no requirement that a health care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person, who has obtained or has knowledge of a test result pursuant to this section, shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;

8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;

9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;

10. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;

c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for ***Health Services***[~~Human Resources~~] shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate;

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test;

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The cabinet shall continue to provide for anonymous testing and counseling;

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet;

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312 or 313 to register with the cabinet if he does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop a program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 414. KRS 214.990 is amended to read as follows:

(1) Every head of a family who willfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be guilty of a violation for each day he neglects or refuses to report. Repeated failure to report is sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the Cabinet for ***Health Services***~~[Human Resources]~~ under KRS 214.020 shall be guilty of a Class B misdemeanor.

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be guilty of a violation.

(4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be guilty of a Class A misdemeanor.

(5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be guilty of a Class B misdemeanor.

(6) Any person who violates any provision of KRS 214.420 shall be guilty of a violation. Each violation shall constitute a separate offense.

(7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

Section 415. KRS 215.520 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall discharge all duties relating to all matters of tuberculosis control, including, but not limited to, the following:

(1) The facilitation of appropriate clinical services for either recalcitrant or drug resistant persons with active tuberculosis for which failure to provide services will lead to further spread of disease in the Commonwealth;

(2) The promulgation of administrative regulations pursuant to KRS Chapter 13A for the purpose of carrying out the directives of this section, KRS 215.540, 215.550, 215.560, 215.570, 215.580, 215.590, and 215.600;

(3) The maintenance of a central register of all known cases of tuberculosis in the Commonwealth, and local registers as desirable, and the collection, collation, analysis, and publication of statistics and other information;

(4) The facilitation of tuberculosis programs in cooperation with the Department of Corrections, Department of Education, and other state agencies within their respective jurisdictions;

(5) The establishment within the Cabinet for ***Health Services***~~[Human Resources]~~ of appropriate social service and financial responsibility appraisal methods to insure that tuberculosis patients or suspects receive all possible support from third-party payors, or from the Medical Assistance Program. The Cabinet for ***Health Services***~~[Human Resources]~~ may contract for services for persons with tuberculosis, either directly or through local health departments, and may pay the rates it deems necessary as a charge against the tuberculosis control funds of the Commonwealth;

(6) The dissemination of educational materials to the citizens of the Commonwealth regarding tuberculosis and its control;

(7) The initiation of special programs and demonstrations in cooperation with agencies of the federal government, universities, voluntary agencies, and other individuals or corporations;

(8) The provision of direct assistance to local health departments, to other agencies of state government, and to other organizations to assist them in carrying out education, prevention, and treatment programs of tuberculosis control; and

(9) Except as otherwise provided by law, to do all other things reasonably necessary to carry out the intent of this section and KRS 215.540 to 215.600.

Section 416. KRS 215.590 is amended to read as follows:

(1) A health service or health facility required to be licensed pursuant to KRS Chapter 216B or KRS Chapter 333, a health provider required to be licensed pursuant to KRS Chapters 311, 312, 313, 314, 315, or 320, or any other person who has knowledge of a person who has active tuberculosis, shall report the case to the local health department in accordance with the administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ promulgated pursuant to KRS Chapter 13A.

(2) Physicians, hospitals, laboratories, or other institutions which perform related drug susceptibility tests on tubercle bacilli shall report the results of the testing to the local health department in accordance with the administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~ promulgated pursuant to KRS Chapter 13A. All reports of drug-resistant tubercle bacilli shall be made regardless of previous reports.

(3) No legal action shall lie against any physician, hospital employee, laboratory employee, or other person who, in good faith, reports a case of tuberculosis or the isolation of the tubercle bacillus as provided in this section, KRS 215.511, 215.520, 215.531, 215.540, 215.550, 215.560, 215.570, 215.580, and 215.600.

Section 417. KRS 216.2920 is amended to read as follows:

As used in KRS 216.2920 to 216.2929, unless the context requires otherwise:

(1) "Ambulatory facility" means a facility, including an ambulatory surgical facility, ambulatory care clinic, alternative birth center, mobile health service, or a specialized medical technology service, which is not part of a hospital, and which is licensed pursuant to KRS Chapter 216B, and which provides one (1) or more major ambulatory procedures to patients not requiring hospitalization***;***~~[.]~~

(2) "Charge" means all amounts billed by a hospital or ambulatory facility, including charges for all ancillary and support services or procedures, prior to any adjustment for bad debts, charity contractual allowances, administrative or courtesy discounts, or similar deductions from revenue. However, if necessary to achieve comparability of information between providers, charges for the professional services of hospital-based or ambulatory facility-based physicians shall be excluded from the calculation of charge***;***~~[.]~~

(3) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as either an acute care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility***;***~~[.]~~

(4) "Procedures" means those surgical, medical, radiological, diagnostic, or therapeutic, procedures performed by a provider, as periodically determined by the cabinet in administrative regulations promulgated pursuant to KRS Chapter 13A as those for which reports to the cabinet shall be required. "Procedures" also includes procedures that are provided in hospitals or other licensed ambulatory facilities, or those which require the use of special equipment, including fluoroscopic equipment, computer tomographic scanners, magnetic resonance imagers, mammography, ultrasound equipment, or any other new technology as periodically determined by the cabinet***;***~~[.]~~

(5) "Quality" means the extent to which a provider renders care which obtains for patients optimal health outcomes***; and***~~[.]~~

(6) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 418. KRS 216.2921 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall collect, pursuant to KRS 216.2925, analyze, and disseminate

information on the cost, quality, and outcomes of health services provided by health facilities and health care providers in the Commonwealth.

(2) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall serve as chief administrative officer for the health data collection functions of KRS 216.2920 to 216.2929.

(3) Neither the secretary nor any employee of the cabinet shall be subject to any personal liability for any loss sustained or damage suffered on account of any action or inaction of under KRS 216.2920 to 216.2929.

Section 419. KRS 216.2925 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report, on a periodic basis, which may include quarterly reporting, information regarding the charge for and quality of the procedures and health care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. The cabinet shall rely on data from readily-available reports and statistics whenever possible.

(2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:

(a) A list of medical conditions, health services, and procedures for which charge and quality data shall be collected and published at specified time intervals and in a specified manner;

(b) A timetable for filing data, which may include quarterly reporting of the information provided for under paragraph (a) of this subsection;

(c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;

(d) An acceptable format for data submission which shall include use of the uniform health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or in the form of hard copy;

(e) Procedures to allow health care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and

(f) Procedures pertaining to the confidentiality of data collected.

(3) The cabinet shall coordinate its data-gathering activities with other data-collection activities conducted by the Department of Insurance, as well as other state agencies which collect health-related service, utilization, financial, and health care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

(4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health care charges and quality.

(5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.

(6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.

(7) The Cabinet for ***Health Services***[~~Human Resources~~] shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135.

Section 420. KRS 216.2929 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall at least annually, on or before July 1, prepare and publish, in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons, a report or reports on health care charges, quality, and outcomes which includes diagnosis-specific or procedure-specific

comparisons for each hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.

(2) The cabinet shall at least annually, on or before October 1, submit to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.

(3) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, to the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare and to the Governor on matters pertaining to comparative health care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health care costs, and any recommendations regarding its data collection and dissemination activities.

(4) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

Section 421. KRS 216.313 is amended to read as follows:

As used in KRS 216.310 to 216.360:

(1) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care, for more than twenty-four (24) hours, of two (2) or more nonrelated individuals suffering from illness, disease, injury, deformity, or a place including nursing and convalescent homes and all institutions for the care of the sick, devoted primarily to providing, for more than twenty-four (24) hours, obstetrical or other medical or nursing care for two (2) or more nonrelated individuals;

(2) "District" means hospital district;

(3) "Board" means the governing body of a hospital district;

(4) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~human resources~~] or his designee; and

(5) "Medical service area" means the geographic territory from which patients come or are expected to come to existing or proposed health facilities as defined by the Cabinet for ***Health Services***[~~human resources~~].

Section 422. KRS 216.315 is amended to read as follows:

The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall, in addition to his other duties, act as secretary of hospital districts, and is vested with jurisdiction, power, and authority, when the conditions set forth in KRS 216.317 exist, to establish a hospital district within a medical service area as established by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 423. KRS 216.347 is amended to read as follows:

Within sixty (60) days after the close of each fiscal year the board shall make a written report to the secretary. A copy of this report shall be filed with the county clerk of each county within the district. The report shall contain:

(1) An itemized statement of the various sums of money received for the district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;

(4) A statement of the character of hospital services furnished to the district during the fiscal year; and

(5) Any other statistics or information requested by the Cabinet for ***Health Services***[~~ Human Resources~~].

Section 424. KRS 216.380 is amended to read as follows:

(1) The licensure category of rural primary-care hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a rural primary-care hospital without first obtaining a license from the Cabinet for ***Health Services***[~~Human Resources~~]. An acute-care hospital converting to a rural primary-care hospital shall not require a certificate of need. New construction of a rural primary-care hospital shall require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a rural primary-care hospital. No new rural primary-care hospital facilities shall be constructed before July 15, 1994.

(3) Only a hospital licensed as a general acute-care hospital may be relicensed as a rural primary-care hospital if all of the following criteria are met:

(a) The facility is located at least twenty (20) miles, via road that is paved year-round, from the nearest licensed acute-care hospital providing twenty-four (24) hour emergency care;

(b) The facility has sixty (60) or fewer beds; and

(c) The facility is not in a county which is part of a standard metropolitan statistical area.

(4) A rural primary-care hospital shall provide the following services:

(a) Twenty-four (24) hour emergency-room care with at least one (1) individual present who has completed certification and maintained competency in advanced cardiac and trauma life support, and a physician or physician extender on call.

(b) At least six (6) acute-care beds which shall be used for observation and treatment of acute-care conditions designated by the Cabinet for ***Health Services***~~[Human Resources]~~. In no case shall patients remain in a rural primary-care hospital for more than ninety-six (96) hours; and

(c) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on an off-site contractual basis but shall be available twenty-four (24) hours per day.

(5) A rural primary-care hospital may provide the following services:

(a) Swing beds or a distinct nursing facility, but only if there is not a bed available in any nursing facility, intermediate care facility, or skilled nursing facility within the county of residence of the patient or of the hospital, or the patient has been refused admission to the nursing facility, intermediate care facility, or skilled nursing facility;

(b) Surgery with the limits of the ninety-six (96) hour length of stay and designated conditions;

(c) Normal obstetrics within the limits of the ninety-six (96) hour length of stay;

(d) Primary care;

(e) Adult day health care;

(f) Respite care; and

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis.

(6) The following staffing plan shall apply to a rural primary-care hospital:

(a) The medical staff shall have at least one (1) physician who shall serve as a medical director; and

(b) Physician extenders may treat patients within the limits of their statutory scope of practice. Physician extenders shall be supervised by a physician who is not required to be on site at all times. When the facility is occupied by a patient, a physician shall be on call within one-half (1/2) hour.

(7) A rural primary-care hospital shall have a written quality-assurance program. Quality assurance may be provided through a contractual arrangement.

(8) A rural primary-care hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the rural primary-care hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on site.

(9) An application for licensure as a rural primary-care hospital together with the hospital's strategic plan shall be provided by the applicant to the Kentucky Board of Family Health Care Providers for review and recommendation to the Division for Licensure and Regulation within the Cabinet for ***Health Services***~~[Human Resources]~~. The board shall review the application and plan with regard to feasibility and the appropriateness of these services which are proposed in the context of other services available or the lack thereof in the service area of the applicant.

(10) The Cabinet for ***Health Services***~~[Human Resources]~~ shall seek a federal Medicaid waiver to permit cost-based reimbursement of services provided to Medicaid recipients in a rural primary-care hospital.

(11) The Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

Section 425. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for ***Health Services***~~[Human Resources]~~ to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Public Law 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 426. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member or his guardian, of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and the responsible party or his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of the responsible party or his responsible family member, or his guardian, prior to or at the time of admission and quarterly during the resident's stay at the facility, of all service charges for which the resident or his responsible family member or his guardian is responsible for paying. The resident and the responsible party or his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or administrative regulation. Reasonable notice of such action shall be given to the resident and the responsible party or his responsible family member or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident or his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or administrative regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and the responsible party or his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible party or family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for the spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multibed rooms and in tub, shower, and toilet rooms.

(16) The resident and the responsible party or his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and the responsible party or his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible party or family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the Cabinet for ***Health Services***[~~Human Resources~~].

(24) Each resident and the responsible party or his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Section 427. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term care facility shall develop and implement a mechanism which will allow each resident and the responsible party or his responsible family member or his guardian to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and the responsible party or his responsible family member or his guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the cabinet.

(4) Every long-term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in KRS 216.515 to 216.525.

(5) All long-term care facilities shall maintain in their facilities one (1) copy of the most recent inspection report as prepared by the Cabinet for ***Health Services***[~~Human Resources~~]. The cabinet shall provide all long-term care facilities with one (1) copy of the most recent inspection report.

Section 428. KRS 216.535 is amended to read as follows:

As used in KRS 216.537 to 216.590:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Cabinet for ***Health Services***[~~Human Resources~~] to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing facilities as defined in Public Law 100-203, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~].

(3) "Resident" means any person admitted to a long-term care facility as defined by this section.

(4) "Licensee" in the case of a licensee who is an individual means the individual, and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership, or association.

(5) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

(6) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities.

(7) "Willful interference" means an intentional, knowing, or purposeful act or omission which hinders or impedes the lawful performance of the duties and responsibilities of the ombudsman as set forth in this chapter.

Section 429. KRS 216.541 is amended to read as follows:

(1) Willful interference, as defined in KRS 216.535, with representatives of the Office of the Long-Term Care Ombudsman in the lawful performance of official duties, as set forth in the Older American's Act, 42 U.S.C. Section 3001 et seq., shall be unlawful.

(2) Retaliation and reprisals by a long-term care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.

(3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars ($100) to five hundred dollars ($500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the ***Office***[~~Division~~] of Aging Services.

(4) The Cabinet for ***Families and Children***[~~Human Resources~~] shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 430. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for ***Public*** Health[~~ Services~~]; the commissioner of the Department for Social Services; the commissioner of the Department for Social Insurance; the inspector general; the director of the Division for Licensing and Regulation; the ***executive*** director of the ***Office of***[~~Division for~~] Aging Services; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 431. KRS 216.593 is amended to read as follows:

The provisions of KRS 12.028 and ***subsection (1) of Section 5 of this Act***[~~194.040(1)~~] shall not apply to KRS 216.537 to 216.590.

Section 432. KRS 216.750 is amended to read as follows:

As used in KRS 216.750 to 216.780:

(1) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provides nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care;

(2) "Personal care home" means a place devoted primarily to the maintenance and operation of facilities for the care of aged or invalid persons who do not require intensive care normally provided in a hospital or nursing home but who do require care in excess of room, board and laundry;

(3) "Fund" means the Nursing Home and Personal Care Home Loan Fund; ***and***

(4) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~].

Section 433. KRS 216.760 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall be responsible for promotion of interest in the development of additional facilities for the housing and care of the elderly, and for providing consultative and technical assistance to public and private groups engaged in the development of such facilities. The cabinet's functions shall include but not be limited to:

(1) Promotion of local and community interest in the problem of housing and care for the elderly.

(2) Assisting local housing commissions in the development of low-rent housing projects for the elderly.

(3) Provision of information as to need for facilities in particular areas or locations.

(4) Provision of advice and assistance in the planning of facilities as to area to be served, size, type, staffing, operation and maintenance.

(5) Provision of information as to the availability of federal financial assistance and the procedures which should be followed in applying for such assistance.

(6) Provision of information as to the availability of state financial assistance and the procedures which should be followed in applying for such assistance.

(7) Provision of information as to the availability of private financial assistance.

(8) Provision of information as to licensing requirements of the state or its political subdivisions.

Section 434. KRS 216.787 is amended to read as follows:

(1) No agency providing services to senior citizens which are funded by the Department for Social Services ***or the Office of Aging Services*** of the Cabinet for ***Families and Children***[~~Human Resources~~] shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.

(2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.

(3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 435. KRS 216.793 is amended to read as follows:

(1) Each application form provided by the employer to the applicant for initial employment in a nursing facility or in a position funded by the Department for Social Services ***or the Office of Aging Services*** of the Cabinet for ***Families and Children***[~~Human Resources~~] and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form approved by the Justice Cabinet. The Justice Cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request and shall not exceed five dollars ($5) per application.

Section 436. KRS 216.800 is amended to read as follows:

As used in KRS 216.800 to 216.853 unless the context requires otherwise:

(1) "Agreement" means a written contract between the authority and any city, county, or other political subdivision of the Commonwealth or any combination thereof, providing for the construction and financing and operation of one or more projects of the authority;

(2) "Authority" means the Kentucky Health and Geriatric Authority, a body corporate and politic created by KRS 216.800 to 216.853;

(3) "Bonds" means revenue bonds, notes or other obligations either in original or refunded form issued under the provisions of KRS 216.800 to 216.853;

(4) "Cost" means the expenditures for construction, acquisition of land, rights-of-way, property, rights, easements and interest acquired for such construction, demolishing or removing any buildings or structures on land so acquired, all machinery and equipment, financing charges, interest prior to and during construction, engineering and legal expenses, plans, specifications, surveys, cost and revenue estimates, other expenses necessary or incident to determining the feasibility or practicability of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of a project, the financing of such construction and the placing of the project into operation. Any expense heretofore incurred by the cabinet on projects of the authority may be reimbursed to it from the proceeds of revenue bonds of the authority;

(5) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(6) "Lease" means a written lease made by the authority as lessor and the cabinet, federal government, city, county, or other political subdivision of the Commonwealth or any combination thereof;

(7) "Owner" means all individuals, partnerships, associations, or corporations having any title or interest in any property, rights, easements or interest authorized by KRS 216.800 to 216.853 to be acquired; ***and***

(8) "Project" means any building, facility, equipment or structure which the authority may deem necessary for the promotion of the health of the residents of the Commonwealth including, but not limited to, hospitals, geriatric centers, appropriately designed housing for the elderly, medical clinics, rehabilitation centers, diagnostic centers, extended care centers and such other facilities as are related to the care, research and treatment of disease, and all property, rights, easements and interest which may be acquired by the authority for the construction and operation of the project.

Section 437. KRS 216.803 is amended to read as follows:

(1) The Kentucky Health and Geriatric Authority shall be composed of five (5) members who shall be the Governor, secretary for ***health services***[~~human resources~~] or his designee, commissioner of ***public***[~~health services~~], Attorney General, and the secretary of revenue. These five (5) persons and their successors in office are a body corporate and

politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of the "Kentucky Health and Geriatric Authority," with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, to have and use a corporate seal, and to exercise, in addition to the powers and functions conferred by KRS 216.800 to 216.853, all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Three (3) members of the authority shall constitute a quorum for the transaction of business. The Governor shall be the chairman of the authority and the secretary for ***health services***[~~human resources~~] or his designee shall be the vice chairman. The authority shall elect a secretary and a treasurer who shall serve at the pleasure of the authority and receive such compensation as may be determined by the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, premium therefor to be paid by the authority. The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection.

Section 438. KRS 216.860 is amended to read as follows:

As used in KRS 216.865:

(1) "Division" means the Division of Licensing and Regulation within the Cabinet for ***Health Services***[~~Human Resources~~]***;***[~~.~~]

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~]***;***[~~.~~]

(3) "Secretary" means the secretary for ***health services; and***[~~human resources.~~]

(4) "Nursing pools" means any person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for medical personnel including, but not limited to, nurses, nursing assistants, nurses' aides, and orderlies. For purposes of KRS 216.865, nursing registries shall be considered to be nursing pools. Excluded from this definition are any health-facility-based or in-house pools established to provide services within the confines of such facility or business, any person who only engages in providing his or her own services on a temporary basis to health care facilities, and home health agencies licensed pursuant to KRS Chapter 216 which provide or procure temporary employment in health care facilities for medical personnel.

Section 439. KRS 216.875 is amended to read as follows:

As used in KRS 216.880 to 216.890 the following definitions shall apply:

(1) "Prescribed pediatric extended care center" hereinafter referred to as a "PPEC center," means any building or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the day, basic services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, marriage, or adoption and who require such services***;***[~~.~~]

(2) "Basic services" include, but are not limited to, development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with the parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically dependent child served as well as the caregiver training needs of the child's legal guardian***;***[~~.~~]

(3) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(4) "Owner or operator" means any individual who has general administrative charge of a PPEC center***;***[~~.~~]

(5) "Medical records" mean medical records maintained in accordance with accepted professional standards and practices as specified in the administrative regulations***;***[~~.~~]

(6) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse***; and***[~~.~~]

(7) "Supportive services or contracted services" include, but are not limited to, speech therapy, occupational therapy, physical therapy, social work, developmental, child life, and psychological services.

Section 440. KRS 216.885 is amended to read as follows:

(1) It is unlawful to operate or maintain a PPEC center without first obtaining a certificate of need from the Kentucky Health Policy Board and a license for the PPEC center from the cabinet. The cabinet is responsible for licensing PPEC centers in accordance with the provisions of KRS Chapter 216B.

(2) Separate licenses are required for PPEC centers maintained on separate premises, even though they are operated under the same management. Separate licenses are not required for separate buildings on the same grounds.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] may deny, revoke, modify, or suspend a license in accordance with

KRS 216B.105.

Section 441. KRS 216.890 is amended to read as follows:

(1) On or before July 1, 1989, the Cabinet for ***Health Services***~~[Human Resources]~~ shall promulgate administrative regulations to implement the provisions of KRS 216.875 to 216.890, which shall include reasonable and fair standards. Such standards shall relate to:

(a) The assurance that PPEC services are family centered and provide individualized medical, developmental, and family training services;

(b) The maintenance of PPEC centers based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served;

(c) The appropriate provisions of the "Life Safety Code" (NFPA-101, 1985 edition);

(d) The number and qualifications of all personnel who have responsibility for the care of the children served;

(e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of children served;

(f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's legal guardians;

(g) Supportive, contracted, other operational, and transportation services; and,

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs to be maintained in the facility for inspection by the cabinet.

(2) Enforcement of standards pursuant to the adoption of administrative regulations under KRS 216.875 to 216.890 shall not take effect until six (6) months after the adoption of such administrative regulations.

Section 442. KRS 216.905 is amended to read as follows:

It shall be unlawful to operate or maintain a network without first obtaining a license from the Cabinet for ***Health Services***~~[Human Resources]~~. A network shall not require a certificate of need.

Section 443. KRS 216.910 is amended to read as follows:

(1) Any licensed network shall be permitted to establish one (1) extension site per full-time physician on the staff of the network. Extension sites shall not be required to have a separate license but shall conform to administrative regulations promulgated by the Cabinet for ***Health Services***~~[Human Resources]~~ and shall be inspected on a regular basis.

(2) Each network shall establish protocols for the treatment of the twenty (20) most common patient problems. At a minimum, the protocols shall identify for each problem a working definition, patient symptoms, diagnostic techniques, acceptable values for laboratory findings, conditions under which a physician shall be consulted, and treatment methods. These protocols shall be approved by the board. The protocols shall be listed in a handbook provided to each midlevel health care practitioner and shall be available to patients upon request.

(3) Each network shall have a system of patient and family medical records which employs the problem-oriented medical record format.

(4) A network shall employ a primary care physician who has admitting privileges at a local hospital. The network shall hire ancillary personnel as necessary to provide the basic services of the network. The network may hire midlevel health care practitioners to assist the physician but there shall be one (1) physician on staff for each midlevel health care practitioner.

(5) A physician shall see each patient for whom services are provided by a midlevel health care practitioner not less than twice a year. A medical chart auditor shall review the medical record entries for each patient encounter on the day of the encounter and will refer to the physician immediately any deviation from protocol.

(6) Each network shall develop a quality assurance program which shall be approved by the board. At a minimum, the quality assurance program shall address:

(a) Program goals and objectives;

(b) Program organization, including identification of responsible parties, the nature of their responsibilities, and the persons to whom they report; and

(c) Identification of the patient care process.

(7) Each network shall establish a process by which it regularly evaluates the health care needs of its community and the services it provides in response to those needs.

(8) Each network shall provide the following educational opportunities:

(a) Ninety (90) minutes each week of continuing education to its health care providers on topics relating to patient care needs; and

(b) One and one-half (1.5) days leave and fifty percent (50%) of expenses up to three hundred dollars ($300) per year to its midlevel health care practitioners for approved continuing education outside of the network.

(9) Each network shall either provide directly for twenty-four (24) hour, seven (7) day per week access to care for its patients or have formal written agreements with local providers to insure twenty-four (24) hour, seven (7) day per week access to care for its patients.

(10) No network may charge or collect more money for the services of any midlevel health care practitioner than is allowable under Medicaid for other nonphysician practitioners.

Section 444. KRS 216.915 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations necessary to implement KRS 216.900 to 216.910.

Section 445. KRS 216.920 is amended to read as follows:

There is hereby created the Kentucky Board of Family Health Care Providers.

(1) The board shall be composed of one (1) representative from each of the following organizations: the Kentucky Medical Association, the Kentucky Nursing Association, a physician from the Kentucky Public Health Association, the Kentucky Dental Association, the Kentucky Hospital Association, the Kentucky Primary Care Association, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the Kentucky Board of Pharmacy, the Kentucky Academy of Family Practitioners, a physician from either family practice or community medicine representing each of the colleges of medicine in the Commonwealth, and a consumer.

(2) The board shall:

(a) Certify new midlevel health care practitioners, recertify midlevel health care practitioners annually, and revoke certification as necessary;

(b) Develop and administer qualifying examinations for midlevel health care practitioners to test knowledge of the most frequently occurring protocols;

(c) Identify continuing education requirements for midlevel health care practitioners and qualify the continuing education courses provided to them;

(d) Approve or prescribe the treatment protocols utilized by each network;

(e) Approve the quality assurance programs of each network;

(f) Approve the drug formulary used by each network; and

(g) Issue administrative regulations necessary to implement this section and KRS 216.925.

(3) The board shall meet at least quarterly. The Cabinet for ***Health Services***[~~Human Resources~~] shall provide necessary staff assistance to the board and shall reimburse board members at the rate of reimbursement for the advisory councils and committees.

(4) Applicants for certification and recertification shall pay a fee of fifty dollars ($50). These fees shall be placed in a trust and agency fund and shall be used to cover the cost of board operations and the administration of examinations.

(5) Upon appeal of a board decision, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 446. KRS 216A.040 is amended to read as follows:

There shall be a Kentucky Board of Licensure for Nursing Home Administrators located within the Finance and Administration Cabinet for administrative and budgetary purposes. The board shall be composed of ten (10) members. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall be an ex officio member of the board. The other members of the board shall be appointed by the Governor. One (1) member shall be a practicing hospital administrator, to be appointed from a list of two (2) names submitted by the Kentucky Hospital Association. One (1) member shall be a practicing medical physician, to be appointed from a list of two (2) names submitted by the Kentucky State Medical Association. One (1) member shall be an educator in the field of allied health services. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. One (1) member shall be a practicing nursing home administrator appointed from a list of two (2) names submitted by the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc. The other four (4) members shall be practicing nursing home administrators appointed from a list of two (2) names for each vacancy submitted by the Kentucky Association of Health Care Facilities and duly licensed under this chapter, except that such members of the initial board shall be required only to possess the qualifications and be eligible for licensure as required in this chapter.

Section 447. KRS 216B.010 is amended to read as follows:

The General Assembly finds that the licensure of health facilities and health services is a means to insure that the citizens of this Commonwealth will have safe, adequate, and efficient medical care; that the proliferation of unnecessary health care facilities, health services, and major medical equipment results in costly duplication and underuse of such facilities, services, and equipment; and that such proliferation increases the cost of quality health care within the Commonwealth. Therefore, it is the purpose of this chapter to fully authorize and empower the Cabinet for ***Health Services***[~~Human Resources~~] to perform any certificate-of-need function and other statutory functions necessary to improve the quality and increase access to health care facilities, services, and providers, and to create a cost-efficient health care delivery system for the citizens of the Commonwealth.

Section 448. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A*;*[~~.~~]

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located*;*[~~.~~]

(3) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license*;*[~~.~~]

(4) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~]*;*[~~.~~]

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof*;*[~~.~~]

(6) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review*;*[~~.~~]

(7) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter*;*[~~.~~]

(8) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet*;*[~~.~~]

(9) "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature*;*[~~.~~]

(10) "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services*;*[~~.~~]

(11) "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included*;*[~~.~~]

(12) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need

as authorized under KRS 216B.095***;***[~~.~~]

(13) "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;

2. Telecommunications or telephone systems;

3. Management information systems;

4. Ventilation systems;

5. Heating or air conditioning, or both;

6. Energy conservation; or

7. Administrative offices***;***[~~.~~]

(14) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record***;***[~~.~~]

(15) "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state***;***[~~.~~]

(16) "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet***;***[~~.~~]

(17) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(18) "State health plan" means the document prepared triennially, updated annually, and approved by the Governor***;***[~~.~~]

(19) "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility***;***[~~.~~]

(20) "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility***;***[~~.~~]

(21) "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation***;***[~~.~~]

(22) "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person***;***[~~.~~]

(23) "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area***;***[~~.~~]

(24) "To establish" means to construct, develop, or initiate a health facility***;***[~~.~~]

(25) "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract***; and***[~~.~~]

(26) "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 449. KRS 216B.135 is amended to read as follows:

There is hereby created a Task Force on Health Care Cost and Quality for the purpose of studying the implementation of KRS 216B.015, 216B.020, 216B.040, 216B.042, 216B.061, 216B.065, 216B.085, 216B.086, 216B.090, 216B.095, 216B.115, and 216B.120. The task force members shall be appointed by the Governor on July 13, 1990. The task force shall include a reasonable number of members and shall include, but not be limited to, chief executive officers of nonprofit health insurance organizations and for-profit and not-for-profit health care institutions and prominent citizens with an interest in health care cost containment. The task force shall be co-chaired by the mayor of the largest city within and county judge/executive of any county containing more than 3,000 acute care hospital beds. The task force shall hold its first meeting no later than July 30, 1990, and shall meet at least bimonthly. The task force shall forward a report of its findings and recommendations to the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and to the Legislative Research Commission no later than December 31, 1991.

Section 450. KRS 216B.300 is amended to read as follows:

As used in KRS 216B.300 to 216B.320 and KRS 216B.990(7), unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~] or its designee. Designee shall be defined as any agency established under KRS Chapter 211 or KRS 147A.050 whose duties related to this chapter shall be set forth in administrative regulation***;***[~~.~~]

(2) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(3) "Boarder" means a person who does not require supervision or assistance related to medication, activities of daily living, or a supervised plan of care***; and***[~~.~~]

(4) "Boarding home" means any home, facility, institution, lodging, or other establishment, however named, which accommodates three (3) or more adults not related by blood or marriage to the owner, operator, or manager, and which offers or holds itself out to offer room and board on a twenty-four (24) hour basis for hire or compensation. It shall not include any facility which is otherwise licensed and regulated by the cabinet or any hotel as defined in KRS 219.011(4).

Section 451. KRS 216B.303 is amended to read as follows:

Every resident in a boarding home, as defined in KRS 216B.300, shall have at least the following rights:

(1) Before entering a boarding home, the resident or the resident's guardian, if any, shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all services provided by the boarding home and all applicable charges.

(2) Before entering a boarding home, the resident or the resident's guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment or that of the resident's guardian, of all the resident's rights as defined in this section, and a list of any rules established by the boarding home.

(3) All residents shall be allowed to exercise their rights as a resident and a citizen, and may voice grievances and recommend changes in policies and services to the boarding home operator and to outside representatives of their choice, free from restraint, interference, coercion, discrimination, or reprisal.

(4) All residents shall be free from mental and physical abuse.

(5) Each resident may manage the use of his personal funds. The boarding home operator shall not require a resident to designate the operator as payee for any benefits received by the resident. However, if the operator accepts the responsibility for managing the resident's personal funds as evidenced by the operator's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include the operator giving quarterly itemized statements to the resident or the resident's guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The operator shall return to the resident his valuables, personal possessions, and any unused balance of moneys from his account at the time the resident leaves the boarding home.

(6) Residents shall not be required to perform services for the boarding home.

(7) Residents may associate and communicate privately with persons of their choice, within reasonable hours established by the boarding home, and send and receive personal mail unopened.

(8) No resident shall be detained against the resident's will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish.

(9) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(10) Residents shall be assured of at least visual privacy in multibed rooms and in bathrooms.

(11) If the resident has been adjudicated wholly mentally disabled in both financial and personal affairs in accordance with KRS 387.590, the resident's guardian shall not place the ward in a boarding home.

(12) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality.

(13) Residents shall have access to a telephone at a convenient location within the boarding home for making and receiving telephone calls subject to reasonable rules established by the boarding home.

(14) Residents have the right to have private meetings with inspectors representing the Cabinet for ***Health Services***~~[Human Resources]~~.

(15) Each resident and his guardian has the right to have access to all inspection reports on the boarding home.

Section 452. KRS 216B.305 is amended to read as follows:

(1) No person shall operate a boarding home without registering, on an annual basis, in a manner and form prescribed by the secretary. The secretary shall impose a fee, not to exceed one hundred dollars ($100), for this registration.

(2) The secretary shall adopt standards, by administrative regulation pursuant to KRS Chapter 13A, for the operation of boarding homes. The administrative regulations shall include minimum requirements in the following areas:

(a) Minimum room sizes for rooms occupied for sleeping purposes. Rooms occupied by one (1) boarding home resident shall contain at least sixty (60) square feet of floor space. Rooms occupied by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant;

(b) Bedding, linens, and laundry services provided to residents;

(c) Sanitary and plumbing fixtures, water supply, sewage disposal, and sanitation of the premises;

(d) Heating, lighting, and fire prevention, including the installation and maintenance of smoke detectors;

(e) Maintenance of the building;

(f) Food handling, preparation, and storage, and kitchen sanitation;

(g) Handling and storage of resident's prescription drugs; and

(h) Complaint procedures whereby residents may lodge complaints with the cabinet concerning the operation of the boarding home.

(3) Prior to the initial or annual registration of a boarding home, the cabinet shall cause an unannounced inspection to be made of the boarding home, either by cabinet personnel or through the local health department acting on behalf of the cabinet, to determine if the boarding home is in compliance with:

(a) Administrative regulations relating to the operation of boarding homes promulgated pursuant to subsection (2) of this section; and

(b) All applicable local health, fire, building and safety codes and zoning ordinances.

(4) Any boarding home found to be out of compliance with administrative regulations relating to boarding homes promulgated pursuant to subsection (2) of this section, after being provided with written notice of noncompliance and a reasonable period of time for correction, shall not be registered. A boarding home operator may appeal the cabinet's denial of registration, and an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If a boarding home continues to operate in violation of administrative regulations promulgated pursuant to subsection (2) of this section, the cabinet shall institute injunctive proceedings in Circuit Court to terminate the operation of the boarding home.

(5) Employees or designated agents of the cabinet shall have the authority to enter at any time a boarding home or any premises suspected of operating as an unregistered boarding home for the purpose of conducting an inspection or investigating a complaint.

(6) Nothing in this section or KRS 216B.303 shall be construed to prohibit local governments from imposing requirements on boarding homes that are stricter than those imposed by administrative regulations of the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 453. KRS 216B.410 is amended to read as follows:

All conforming ambulance services, but no nonconforming ambulance services, shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters, and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

(1) Two (2) copies of the Kentucky emergency medical service ambulance run report form, one (1) copy to be kept in the files of the ambulance services and one (1) copy to be submitted to the hospital to which the patient is transported and maintained in the hospital's files, or ambulance run report information compiled and disseminated by electronic means approved by the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) Employee records, including a resume of each employee's training and experience and evidence of current certification; and

(3) Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

Section 454. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455***:***~~[.]~~

(1) "Cabinet" means the Cabinet for ***Health Services;***~~[Human Resources.]~~

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community***;***~~[.]~~

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents***; and***~~[.]~~

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of eight (8) beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

Section 455. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) ~~[The term]~~"Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) ~~[The term]~~"Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~ or its designee;

(3) ~~[The term]~~"Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;

(4) ~~[The term]~~"Food" means:

  (a) Articles used for food or drink for man or other animals;

  (b) Chewing gum; and

  (c) Articles used for components of any such article;

(5) ~~[The term]~~"Drug" means:

  (a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

  (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

  (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

  (d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) ~~[The term]~~"Device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

  (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

  (b) To affect the structure or any function of the body of man or other animals;

(7) ~~[The term]~~"Cosmetic" means:

  (a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

  (b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) ~~[The term]~~"Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) ~~[The term]~~"Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(10) ~~[The term]~~"Immediate container" shall not include package liners;

(11) ~~[The term]~~"Labeling" means all labels and other written, printed or graphic matter:

  (a) Upon an article or any of its containers or wrappers; or

  (b) Accompanying the article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(13) [~~The term~~]"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(15) [~~The term~~]"New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(16) [~~The term~~]"Contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) [~~The term~~]"Federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq., or amendments thereto);

(19) [~~The term~~]"Flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) [~~The term~~]"Enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) [~~The terms~~]"Bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) [~~The term~~]"Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) [~~The term~~]"Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;

(24) [~~The term~~]"Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or

optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(25) [~~The term~~]"Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);

(26) [~~The term~~]"Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;

(27) [~~The term~~]"Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;

(28) [~~The term~~]"Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) [~~The term~~]"Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) [~~The term~~]"Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity; or

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) [~~The term~~]"Color additive" means a material which:

1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;

(b) [~~The term~~]"Color" shall include, but not be limited to black, white, and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) [~~The term~~]"Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(33) [~~The term~~]"Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(34) [~~The term~~]"Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(35) [~~The term~~]"Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(36) [~~The term ~~]"Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) [~~The term ~~]"Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(38) [~~The term ~~]"Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) [~~The term ~~]"Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and

(40) [~~The term ~~]"Food storage warehouse" means any establishment in which food is stored for subsequent distribution.

Section 456. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for ***Health Services***[~~Human Resources~~].

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection (6) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(6) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade and all facilities operated by the Cabinet for ***Health Services, the Cabinet for Families and Children,***[~~Human Resources~~] or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code.

(7) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (6) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(8) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 457. KRS 217.177 is amended to read as follows:

(1) No person engaged in sales at retail shall display hypodermic syringes or needles in any portion of the place of business which is open or accessible to the public.

(2) Every person engaged in sales of hypodermic syringes or needles at retail shall maintain a bound record in which shall be kept:

(a) The name of the purchaser; and

(b) The address of the purchaser; and

(c) The quantity of syringes or needles purchased; and

(d) The date of the sale; and

(e) Planned use of such syringes or needles.

(3) Said record shall be maintained for a period of two (2) years from the date of the sale and shall be available for inspection during business hours by any law enforcement officer, agent or employee of the Cabinet for ***Health Services***[~~Human Resources~~] or Board of Pharmacy engaged in the enforcement of KRS Chapter 218A.

(4) No person shall present false identification or give a false or fictitious name or address in obtaining or attempting to obtain any hypodermic syringe or needle.

(5) No person engaged in the retail sale of hypodermic syringes or needles shall:

(a) Fail to keep the records required by this section; or

(b) Fraudulently alter any record required to be kept by this section; or

(c) Destroy, before the time period required by this section has elapsed, any record required to be kept by this section; or

(d) Sell, or otherwise dispose of, any hypodermic syringe to any person who does not present the identification required by this section; or

(e) Disclose the names in said book except to those required by this section.

(6) Any physician, other licensed medical person, hospital, or clinic disposing of hypodermic syringes or needles shall crush the barrel of same or otherwise render the instrument incapable of further use.

Section 458. KRS 217.285 is amended to read as follows:

(1) Each food service establishment, having an on-premises seating capacity of twenty-five (25) persons or more, shall post inside the establishment, in a location conspicuous to employees, a choke-saving techniques poster meeting the following requirements.

(2) The choke-saving techniques poster shall meet the following specifications:

(a) The poster shall depict through illustration and description procedures for the removal of food which is lodged in a person's throat; and

(b) The techniques illustrated and described shall include, but need not be limited to, the procedures whereby the choking person is grasped around the lower chest and upper abdomen and given a quick jerk, thus putting increased interabdominal pressure on the lungs and expelling the foreign matter.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] shall produce or requisition the production of the choke-saving techniques poster as provided in this section and shall supply the posters to the local health departments for distribution without cost to food establishments.

Section 459. KRS 217.380 is amended to read as follows:

(1) The officials in charge of the enforcement of the pure food laws of this state, the secretary for ***health services***[~~human resources~~], the local health officers, and the duly appointed agents of all such, shall enforce the provisions of KRS 217.280 to 217.390. For this purpose such officers shall have full power at all times to enter every building, room, inclosure or premises occupied or used or suspected of being occupied or used for the preparation or manufacture for sale, or the storage, sale, distribution or transportation, of such food, and to inspect the premises and all utensils, fixtures, furniture and machinery used therein.

(2) If upon inspection there is found any violation of any of the provisions of KRS 217.280 to 217.390, or if the preparation, manufacture, packing, storage, sale, distribution or transportation of such food is being conducted in a manner detrimental to the health of the employees or to the character or quality of the food, the officer or inspector making the inspection shall report the conditions and violations to the chief pure food official, or to the secretary for ***health services***[~~human resources~~], or to the chief local health officer, as the case may be.

(3) The officer to whom the report is made shall thereupon issue a written order to the person responsible for the violation or condition to abate the condition or violation or to make the changes or improvements necessary to abate them, within a reasonable time as fixed in the order. Notice of the order may be served by delivering a copy to the person, or by sending

a copy by certified mail, return receipt requested in which case the post office receipt shall be prima facie evidence that the notice was received. The person shall have the right to appear in person or by attorney before the officer issuing the notice or the person appointed by him for that purpose, within the time limited in the order, and shall be given an opportunity to be heard and to show why the order or instructions should not be obeyed. The hearing shall be under rules and regulations prescribed by the secretary for ***health services***[~~human resources~~]. If after the hearing it appears that the provisions of KRS 217.280 to 217.390 have not been violated, the order shall be rescinded. If it appears that the provisions of KRS 217.280 to 217.390 are being violated, and that the person notified is responsible therefor, the previous order shall be confirmed or amended, as the facts warrant, and shall thereupon be final, but such additional time as is necessary may be granted within which to comply with the final order. If the person is not present or represented when the final order is made, notice thereof shall be given as above provided. If the person fails to comply with the first order within the time prescribed, when no hearing is demanded, or fails to comply with the final order within the time specified, the facts shall be certified to the Commonwealth's, county or city attorney in whose jurisdiction the violation occurred, and such attorney shall proceed against the person for the applicable fines and penalties, and for abatement of the nuisance. The proceedings prescribed in this section for abatement of the nuisance shall not relieve the violator from prosecution in the first instance for every violation, nor from the penalties prescribed for such violation.

Section 460. KRS 217.544 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control or mitigate pests, or which will act as a plant regulator, defoliant or desiccant, or as a functioning agent in a spray adjuvant;

(2) "Adulterated" shall apply to any pesticide if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted;

(3) "Animal" means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish;

(4) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment;

(5) "Board" means the Pesticide Advisory Board;

(6) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission;

(7) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue;

(8) "Device" means any instrument or contrivance other than a firearm which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than man and other bacteria, virus, or other micro-organisms on or in living man or other living animals; but not including equipment used for the application of pesticides when sold separately therefrom;

(9) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and, having received, deliver or offer to deliver pesticides in this state;

(10) "Environment" includes water, air, land and all plants and man and other animals living therein and the interrelationships which exist among these;

(11) "EPA" means the United States Environmental Protection Agency;

(12) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended;

(13) "Fungi" means all non-chlorophyll bearing thallophytes; that is, all non-chlorophyll bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts, bacteria, and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals;

(14) "Highly toxic pesticide" means any pesticide determined to be highly toxic under the authority of Sec. 25(c)(2) of FIFRA or by the department under this chapter;

(15) "Imminent hazard" means a situation which exists when the continued use of a pesticide would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the United States Department of Interior under Public Law 91-135 of the United States Congress;

(16) "Inert ingredient" means an ingredient which is not an active ingredient;

(17) "Ingredient statement" means a statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide and, when the pesticide contains arsenic in any form, a statement of the percentage of total and water soluble arsenic, each stated as elemental arsenic;

(18) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually

have more than six (6) legs, as, for example, spiders, mites, ticks, centipedes, and wood lice, also nematodes and other invertebrates which are destructive, constitute a liability, and may be classed as pests;

(19) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device, or to any of its containers or wrappers;

(20) "Labeling" means the label and other written, printed or graphic matter:

(a) On the pesticide or device, or any of its containers or wrappers;

(b) Accompanying the pesticide or device at any time or referring to it in any other media used to disseminate information to the public; and

(c) To which reference is made on the label or in the literature accompanying the pesticide or device, except when accurate nonmisleading reference is made to current official publications of the United States Environmental Protection Agency, the Departments of Agriculture and Interior, the Department of Health, Education and Welfare, and other similar federal institutions, the College of Agriculture, University of Kentucky, Kentucky Agricultural Experiment Station, Cabinet for ***Health Services***~~[Human Resources]~~, Natural Resources and Environmental Protection Cabinet, or other agencies of this state or other states when such agencies are authorized by law to conduct research in the field of pesticides;

(21) "Land" means all land and water areas, including air space and all plants, animals, structures, buildings, contrivances, and machinery appurtenant thereto, or situated thereon, fixed or mobile, including any used for transportation;

(22) "Misbranded" means a pesticide is misbranded if:

(a) Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) It is an imitation of or is distributed under the name of another pesticide;

(c) The labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and, if complied with, together with any requirements imposed under section 3(d) of FIFRA are adequate to protect health and the environment;

(d) The labeling does not contain a statement of the use classification under which the product is registered by EPA;

(e) The label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of FIFRA, is adequate to protect health and the environment;

(f) The label does not bear an ingredient statement on that part of the immediate container, and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of the purchase; provided, that the ingredient statement may appear prominently on another part of the container pursuant to section 2(q) 2(A) (i) (ii) of FIFRA if the size and form of the container makes it impractical to place it on that part of the retail package which is presented or displayed under customary conditions of purchase;

(g) Any word, statement, or other information required by KRS 217.542 to 217.630 or FIFRA to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared to other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(h) The label does not bear the name, brand or trademark under which the pesticide is distributed;

(i) The label does not bear the net weight or measure of the content;

(j) The label does not bear the name and address of the manufacturer, registrant or person for whom manufactured; and

(k) The label does not bear the EPA registration number assigned to each establishment in which the product is produced and the EPA number assigned to the pesticide, if required by regulation under FIFRA;

(23) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms;.

(24) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not;

(25) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed, and any other form of plant or animal life, or virus, bacteria, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department may declare to be a pest;

(26) "Pesticide" means any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and any substance or mixture of substances intended to be used as a spray adjuvant;

(27) "Plant regulator" means any substance or mixture of substances, intended through physiological actions, to accelerate or

retard the rate of growth or maturation, or to otherwise alter the behavior of plants, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments;

(28) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment;

(29) "Registrant" means a person who has registered any pesticide pursuant to the provisions of KRS 217.542 to 217.630;

(30) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by regulation of the department;

(31) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used;

(32) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide;

(33) "Weed" means any plant which grows where not wanted; and

(34) "Wildlife" means all living things that are neither human, domesticated, nor as defined in KRS 217.542 to 217.630, pests, including but not limited to mammals, birds and aquatic life.

Section 461. KRS 217.660 is amended to read as follows:

As used in KRS 217.650 to 217.710 unless the context indicates otherwise:

(1) "Secretary" means the secretary for ***health services***[~~human resources~~];

(2) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(3) "Person" includes any individual, partnership, corporation, firm or association;

(4) "Hazardous substance" means any substance or mixture of substances which is:

(a) "Toxic" and has the inherent capacity to produce bodily injury to man through ingestion, inhalation, or absorption through any body surface, including toxic substances which are poisonous;

(b) "Corrosive" on contact with living tissue causing substantial destruction of tissue by chemical action, but does not refer to action on inanimate surfaces;

(c) "Irritant" and not corrosive within the meaning of paragraph (b), which on immediate, prolonged or repeated contact with normal living tissue will induce a local inflammatory reaction;

(d) "Strong sensitizer" and will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the secretary;

(e) "Flammable" with a flashpoint of eighty (80) degrees Fahrenheit or below;

(f) "Radioactive" as a result of disintegration of unstable atomic nuclei and emits energy;

(g) Capable of generating pressure through decomposition, heat, or other means;

(h) Capable of causing substantial personal injury or illness during any customary or reasonably anticipated handling or use; ***and***

(5) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance, or that is easily legible through the outside container or wrapper.

Section 462. KRS 217.801 is amended to read as follows:

(1) Paint manufactured after July 1, 1972, containing more than .5% lead by weight of the nonvolatile content shall not be sold, or used on any toys, children's furniture, interior surface of any dwelling, or any other surface easily accessible to children under the age of 7 years. Such paints shall not be manufactured, sold, or used for any other purpose which would ultimately result in exposure to children under the age of 7 years unless proper application and documentation is made to the Cabinet for ***Health Services***[~~Human Resources~~] and the cabinet determines that no health hazard or danger to children exists from the intended use.

(2) All paints manufactured in this state after July 1, 1972, which will be used in this state will be clearly labeled as to use and hazard when containing more than .5% lead by weight of the total nonvolatile content.

(3) The above provisions of subsections (1) and (2) of this section shall apply to all paints containing more than .06% lead by weight of the total nonvolatile content after January 1, 1974.

Section 463. KRS 217.809 is amended to read as follows:

No person shall operate a vending machine company without having first obtained a permit to operate from the Cabinet for ***Health Services***[~~Human Resources~~] as provided in the regulations of the Cabinet for ***Health Services***[~~Human Resources~~]. All such permits shall expire on June 30 following the date of issue. The Cabinet for ***Health Services***~~[Human Resources]~~ shall adopt regulations relating to vending machines. KRS 217.808 to 217.812 do not apply to blind persons who operate vending machines as part of a program established by federal or state law.

Section 464. KRS 217.812 is amended to read as follows:

All fees collected by the Cabinet for ***Health Services***~~[Human Resources]~~ under the provisions of KRS 217.808 to 217.812 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in defraying the costs and expenses of the cabinet in the administration of KRS 217.808 to 217.812. Such funds may be expended for training of state and local sanitation personnel. The balance of this fund shall revert to the general fund of the Commonwealth at the end of each biennium.

Section 465. KRS 217.950 is amended to read as follows:

(1) Amygdalin (laetrile) may be manufactured in this state subject to licensing and regulation by the Cabinet for ***Health Services***~~[Human Resources]~~. The secretary of the cabinet shall adopt regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing, and packaging the substance. The secretary shall establish standards of purity and shall make periodic tests and inspections of both the facilities for manufacture and samples of the substance to ascertain the purity, quality, and identity of the substance and to determine that the substance meets the standards so established.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~ shall make no rule or regulation which would prohibit the use of amygdalin (laetrile) in any hospital, ambulatory outpatient surgical center, or health care facility licensed by it.

Section 466. KRS 217.993 is amended to read as follows:

(1) Any person violating any provisions of KRS 217.650 to 217.710 shall be guilty of a violation. Each day of violation shall constitute a separate offense.

(2) Any person violating any provisions of KRS 217.900(2) shall upon conviction be guilty of a Class B misdemeanor.

(3) Any person found guilty of inhaling a volatile substance in violation of KRS 217.900(2) may be ordered to a facility designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if, any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment or may order the person subject to the fine or imprisonment, or both, for a Class B misdemeanor. Upon discharge of the person from the facility by the clinical director or his designee prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The clinical director or his designee shall notify the sentencing court of the date of such discharge from the facility.

(4) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or his designee shall inform each court of the identity and location of the facility to which a person may be ordered under this section.

(5) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for ***Health Services***~~[Human Resources]~~ unless the facility shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) Any person violating any provision of KRS 217.900(3) shall upon conviction be guilty of a Class D felony.

Section 467. KRS 217C.030 is amended to read as follows:

As used in this chapter:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~.

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 468. KRS 217C.070 is amended to read as follows:

(1) The secretary for ***health services***~~[human resources]~~ shall appoint a grade A milk advisory committee composed of eight (8) appointive members. Three (3) members shall be processors, or representatives thereof; three (3) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.

(2) The secretary for ***health services***~~[human resources]~~ shall appoint a milk for manufacturing advisory committee composed of eight (8) appointive members. Four (4) members shall be processors, or representatives thereof; two (2) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of

consumers.

(3) The secretary for ***health services***~~[human resources]~~ or his designated representative shall be an ex officio member and secretary of each committee. The appointments to each committee shall be made for a term of four (4) years, or until their successors are appointed and qualify, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the secretary for ***health services***~~[human resources]~~ at the time of their appointment. Such members shall serve without compensation but may be reimbursed for necessary traveling expenses. Procedures for selection of advisory nominees shall be in accordance with the regulations of the secretary.

Section 469. KRS 217C.990 is amended to read as follows:

Any person who violates any provision of this chapter, or any rule or regulation adopted hereunder, or who fails to comply with an order of the Cabinet for ***Health Services***~~[Human Resources]~~ issued pursuant thereto, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each day of violation or noncompliance shall constitute a separate offense.

Section 470. KRS 218A.020 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for ***Health Services***~~[Human Resources]~~ may consider the following:

(a) The actual or relative potential for abuse;

(b) The scientific evidence of its pharmacological effect, if known;

(c) The state of current scientific knowledge regarding the substance;

(d) The history and current pattern of abuse;

(e) The scope, duration, and significance of abuse;

(f) The risk to the public health;

(g) The potential of the substance to produce psychic or physiological dependence liability; and

(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(2) After considering the factors enumerated in subsection (1) the Cabinet for ***Health Services***~~[Human Resources]~~ may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for ***Health Services***~~[Human Resources]~~, the Cabinet for ***Health Services***~~[Human Resources]~~ may similarly control the substance under this chapter by regulation.

(4) The Cabinet for ***Health Services***~~[Human Resources]~~ shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).

Section 471. KRS 218A.040 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

Section 472. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; The bacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3,4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including, but not limited to, Methcathinone, Cat, and Ephedrone).

Section 473. KRS 218A.060 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule II if it finds that:

(1) The substance has high potential for abuse;

(2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) The abuse of the substance may lead to severe psychic or physical dependence.

Section 474. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***~~[Human Resources]~~, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

   (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

   (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

   (c) Opium poppy and poppy straw;

   (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine, Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

   (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

   (b) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

   (c) Phenmetrazine and its salts;

   (d) Methylphenidate.

Section 475. KRS 218A.080 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~ shall place a substance in Schedule III if it finds that:

(1) The substance has a potential for abuse less than the substances listed in Schedules I and II;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Section 476. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***[~~Human Resources~~], the controlled substances listed in this section are included in Schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid amide; methyprylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane.

(2) Nalorphine.

(3) Pentazocine (parenteral or injectable form only).

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than 300 milligrams of ethylmorphine, or any of its salts per 100 milliliters or not more than 15 milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(i) The Cabinet for ***Health Services***[~~Human Resources~~] may except by regulation any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

(5) Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroid substances, or any isomer, ester, salt, or derivative thereof:

(a) Boldenone;

(b) Clostebol;

(c) Dehydrochlormethyltestosterone;

(d) Drostanolone;

(e) Ethylestrenol;

(f) Fluoxymesterone;

(g) Formebulone;

(h) Mesterolone;

(i) Methandienone;

(j) Methandriol;

(k) Methenolone;

(l) Methyltestosterone;

(m) Mibolerone;

(n) Nandrolone;

(o) Norethandrolone;
(p) Oxandrolone;
(q) Oxymesterone;
(r) Oxymetholone;
(s) Stanolone;
(t) Stanozolol;
(u) Testolactone;
(v) Testosterone; and
(w) Trenbolone.

(6) This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is expressly intended for administration through implant to livestock or other nonhuman species, and that is approved by the United States Food and Drug Administration for such use.

Section 477. KRS 218A.100 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall place a substance in Schedule IV if it finds that:

(1) The substance has a low potential for abuse relative to substances in Schedule III;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

Section 478. KRS 218A.110 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***[~~Human Resources~~], the controlled substances listed in this section are included in Schedule IV:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: chloral betaine; chloral hydrate; ethchlorvynol; ethinamate; meprobamate; paraldehyde; petrichloral.

(2) The Cabinet for ***Health Services***[~~Human Resources~~] may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subsection (1) from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Section 479. KRS 218A.120 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

Section 480. KRS 218A.130 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for ***Health Services***[~~Human Resources~~] the controlled substances listed in this section are included in Schedule V:

Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one (1) or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone: Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams.

Section 481. KRS 218A.150 is amended to read as follows:

(1) No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce, or prepare controlled substances, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the Cabinet for ***Health Services***[~~Human Resources~~]. The Cabinet for ***Health Services***[~~Human Resources~~] may adopt regulations and set reasonable fees relating to the issuance and renewal of such licenses. All such licenses shall expire on June 30, following the date of issue, unless renewed. All such fees shall be deposited in a revolving fund to be used by the cabinet in carrying out the provisions of this chapter.

(2) No person shall manufacture any controlled substance except under the direct supervision of a pharmacist.

Section 482. KRS 218A.160 is amended to read as follows:

(1) No manufacturer's or wholesaler's license shall be issued pursuant to this chapter unless the applicant therefor has furnished satisfactory proof:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation that the managing officers are of good moral character;

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] may suspend or revoke any license for cause.

(4) Upon appeal of any action taken under authority of this section, an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 483. KRS 218A.190 is amended to read as follows:

(1) Nonprescription medicinal preparations that contain in 100 milliliters, or as a solid or semisolid preparation, in 100 grams, not more than 200 milligrams of codeine or its salts may be sold over the counter subject to the following conditions:

(a) That the medicinal preparation shall contain in addition to the codeine in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the codeine alone;

(b) That such preparation shall be dispensed or sold in good faith as a medicine, and not for the purpose of evading the provisions of this chapter;

(c) That such preparation shall only be sold at retail without a prescription to a person at least eighteen (18) years of age and only by a pharmacist. An employee may complete the actual cash or credit transaction or delivery;

(d) That such preparations shall not be displayed in areas of the pharmacy open to the public; and

(e) That no person shall purchase and no pharmacist or practitioner shall sell to the same person within a forty-eight (48) hour period more than 120 milliliters of an exempt codeine preparation. Any person purchasing in excess of this limitation shall be deemed to be in illegal possession.

(2) All wholesalers, manufacturers, and repackers shall keep a separate exempt codeine registry showing the following:

(a) Date;

(b) Registration number of recipient;

(c) Name of recipient;

(d) Address;

(e) Name of preparation; and

(f) Quantity.

(3) All pharmacists and practitioners shall keep a separate exempt codeine registry showing the following:

(a) Date;

(b) Name of recipient;

(c) Address;

(d) Name of preparation;

(e) Quantity; and

(f) Pharmacist's or practitioner's name.

(4) Notwithstanding any other provision of this section, the Cabinet for ***Health Services***[~~Human Resources~~] may by regulation specifically prohibit any such codeine preparation from being sold over the counter due to actual or potential abuse.

Section 484. KRS 218A.200 is amended to read as follows:

(1) Every practitioner who is authorized to administer or professionally use controlled substances, shall keep a record of such substances received by him, and a record of all such substances administered, dispensed, or professionally used by him otherwise than by prescription.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all controlled substances received and disposed of by them.

(3) Pharmacists shall keep records of all controlled substances received and disposed of by them.

(4) The record of controlled substances received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity. Every such record shall be kept for a period of two (2) years. The keeping of a record under the federal controlled substances laws, containing substantially the same information as is specified ***in this subsection***[~~herein~~], shall constitute compliance with this section. A copy of the detailed list of controlled substances lost, destroyed, or stolen shall be forwarded to the Cabinet for ***Health Services***[~~Human Resources~~] as soon as practical.

Section 485. KRS 218A.230 is amended to read as follows:

All controlled substances, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(1) Except as otherwise provided in this section, the court having jurisdiction shall order such controlled substances forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept.

(2) The court by whom the forfeiture of controlled substances has been decreed may order the delivery of same to the Cabinet for ***Health Services***[~~Human Resources~~] for destruction. Practitioners, pharmacists, hospitals and nursing homes may voluntarily surrender controlled substances to the Cabinet for ***Health Services***[~~Human Resources~~] for destruction.

(3) The Cabinet for ***Health Services***[~~Human Resources~~] shall keep a record of all substances received and of all substances disposed of, showing the exact kinds, quantities, and forms of such substances, the persons from whom received and the time, place and manner of destruction.

(4) Prescriptions, orders, and records, required by this chapter, and stocks of controlled substances, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

(5) No pharmacist, practitioner, manufacturer***,*** or wholesaler or other custodian of records, prescriptions***,*** or orders required by this chapter shall refuse to permit the inspection thereof by any federal, state, county or municipal officer whose duty it is to enforce the laws of this state or of the United States relating to controlled substances.

Section 486. KRS 218A.240 is amended to read as follows:

(1) It is hereby made the duty of all peace officers within this state, the State Police, the Cabinet for ***Health Services***[~~Human Resources~~], their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, to enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

(2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for ***Health Services***[~~Human Resources~~] shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence.

(3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for ***Health Services***[~~Human Resources~~].

(4) Designated agents of the Cabinet for ***Health Services***[~~Human Resources~~] and the Kentucky Board of Pharmacy are empowered to remove from the files of any pharmacy or other custodian any controlled substance prescription upon tendering a receipt therefor.

(5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.

  (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.

  (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.

  (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his costs, including a reasonable attorney's fee.

(d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his percentage of the funds shall go to the agency initiating the forfeiture action.

(6) It shall be the duty of the Cabinet for ***Health Services***[~~Human Resources~~] to make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether or not any provision thereof has been violated.

Section 487. KRS 218A.250 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall promulgate administrative regulations pursuant to KRS Chapter 13A for carrying out the provisions of this chapter. Administrative hearings on appeals filed pursuant to this chapter shall be conducted in accordance with KRS Chapter 13B.

Section 488. KRS 218A.275 is amended to read as follows:

(1) Any person found guilty of possession of a controlled substance pursuant to KRS 218A.1416 or 218A.1417 may for a first offense, be ordered to a facility designated by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] where a program of treatment and rehabilitation not to exceed one (1) year in duration may be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], or his designee, prior to the expiration of the one (1) year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for ***Health Services***[~~Human Resources~~], or his designee, shall inform each court of the identity and location of the facility to which such person is sentenced.

(3) Transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary for ***health services***[~~human resources~~], or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the Cabinet for ***Health Services***[~~Human Resources~~], unless the person and the facility shall arrange otherwise.

(7) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from any facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the Cabinet for ***Health Services***[~~Human Resources~~], and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates; in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(8) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(9) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of a conviction under the subsection and dismissal may occur only once with respect to any person.

Section 489. KRS 218A.276 is amended to read as follows:

(1) Any person found guilty of possession of marijuana pursuant to KRS 218A.1422 may be ordered to a facility designated by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] where a program of education, treatment, and

rehabilitation not to exceed ninety (90) days in duration may be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250), or both. Upon discharge of the person from the facility by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his designee, shall notify the sentencing court of the date of such discharge from the facility.

(2) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(3) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(5) The secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for ***Health Services***~~[Human Resources]~~, unless the person and the facility shall arrange otherwise.

(7) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(8) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

Section 490. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for ***Health Services***~~[Human Resources]~~ by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter, the law enforcement agency may, subject to the provisions of KRS 218A.435:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be paid into the fund created in KRS 218A.435. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

Section 491. KRS 218A.435 is amended to read as follows:

(1) There is~~[hereby]~~ created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund"~~[herein]~~ referred to ***in this section*** as the "trust fund."

(2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with

administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for ***Health Services***~~[Human Resources]~~ to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and

(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~, the commissioner of the Department of Corrections, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, the first fifty thousand dollars ($50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars ($50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 492. KRS 219.011 is amended to read as follows:

As used in KRS 219.011 to 219.081:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services;***~~[Human Resources.]~~

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~ or its designee***;***~~[.]~~

(3) "Hotel" means every building or structure kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public, and includes motels, tourist homes, and similar establishments, but excludes boarding houses and rooming houses***; and***[~~.~~]

(4) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a hotel.

Section 493. KRS 219.320 is amended to read as follows:

As used in KRS 219.330 to 219.410:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services;***[~~Human Resources.~~]

(2) "Cabinet" means the Cabinet for ***Health Services;***[~~Human Resources.~~]

(3) "Mobile home" means a transportable dwelling unit suitable for year-round occupancy, which is manufactured on a chassis or undercarriage as an integral part thereof, containing facilities for water, sewage, bath and electrical conveniences***;***[~~.~~]

(4) "Mobile home lot" means a parcel of land in a mobile home park for the placement of a single mobile home***;***[~~.~~]

(5) "Mobile home park" means a parcel of land, under the control of any person, available to the public in which two (2) or more mobile home lots are occupied or intended for occupancy by mobile homes and includes any service building, structure, enclosure or other facility used as a part of the park***;***[~~.~~]

(6) "Park" means mobile home parks and recreational vehicle parks***;***[~~.~~]

(7) "Person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity owning or operating a park***;***[~~.~~]

(8) "Recreational vehicle" means any of the following:

(a) "Travel trailer" means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation or vacation***;***[~~.~~]

(b) "Pick-up coach" means a structure designed to be mounted on a truck for use as a temporary dwelling for travel, recreation or vacation***;***[~~.~~]

(c) "Motor-home" means a portable, temporary dwelling to be used for travel, recreation or vacation, constructed as an integral part of a self-propelled vehicle***;***[~~.~~]

(d) "Camping trailer" means a canvas or other collapsible folding structure, mounted on wheels and designed for travel, recreation or vacation use***;***[~~.~~]

(e) "Dependent recreational vehicle" means a recreational vehicle which does not have toilet, lavatory, or bathing facilities***; or***[~~.~~]

(f) "Self-contained recreational vehicle" means a recreational vehicle which can operate independent of connections to sewer, water and electric systems. It contains a water-flushed toilet, lavatory, shower or bath, kitchen sink, all of which are connected to water storage and sewage holding tanks located within the recreational vehicle.

(9) "Recreational vehicle park" means a parcel of land available to the public in which two (2) or more recreational vehicle spaces are occupied or intended for occupancy by recreational vehicles for transient dwelling purposes and includes any service building, structure, enclosure or other facility used as a part of the park***;***[~~.~~]

(10) "Recreational vehicle space" means a parcel of land in a recreational vehicle park for the placement of a single recreational vehicle***;***[~~.~~]

(11) "Sanitary station" means a facility used for receiving and disposing of wastes from recreational vehicle holding tanks***;***[~~.~~]

(12) "Service building" means a building containing water closets, urinals, lavatories and bathing facilities for use by persons using the park***; and***[~~.~~]

(13) "Watering station" means a facility for filling the water storage tanks of recreational vehicles with potable water from an approved water system.

Section 494. KRS 219.350 is amended to read as follows:

No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the cabinet upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the cabinet may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. All plans for the construction, installation or alteration of buildings shall be forwarded by the cabinet to the Department of Housing, Buildings and Construction. Only the Department of Housing, Buildings and Construction shall review such plans for conformance with the uniform state building code. The Department of Housing, Buildings and Construction shall expedite the review of such plans and return them to the Cabinet for ***Health Services***[~~Human Resources~~] for completion of the application process. Each application for a permit to construct or alter a park shall be accompanied by a permit fee of twenty-five dollars ($25). Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one (1) year from date of issuance.

Section 495. KRS 219.390 is amended to read as follows:

(1) For the purpose of assisting in the developing and review of standards and regulations for the administration of KRS 219.310 to 219.410, there is hereby created a State Advisory Committee on Mobile Home and Recreational Vehicle Parks. The committee shall be composed of nine (9) members. The secretary for ***health services***~~[human resources]~~ or his designee shall be an ex officio member. The other members shall be appointed by the secretary for ***health services***~~[human resources]~~, three (3) of whom shall represent park owners, two (2) of whom shall represent mobile home and recreational vehicle dealers, two (2) of whom shall represent local health departments and one (1) member shall be a citizen at large.

(2) All appointed members shall serve for a term of four (4) years except that, of the original appointees, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years, two (2) shall serve for three (3) years and two (2) shall serve for four (4) years. All vacancies shall be filled in the manner of original appointment for the unexpired portion of the term only.

(3) Members of the committee shall receive no compensation for their services, but may be reimbursed for necessary travel expenses.

Section 496. KRS 221.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Secretary" means the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~;

(2) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~;

(3) "Food" includes any article used by man for food, drink, confectionery or condiment, or which enters into the composition of the same whether simple, blended, mixed or compounded;

(4) "Frozen food locker plant" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food and which is equipped with a chill room, sharp freezing facilities and facilities for cutting, preparing, wrapping and packaging meats and meat products, fruits and vegetables;

(5) "Branch frozen food locker plant" means a location or establishment in which space in individual lockers is rented to persons for storage of frozen food after preparation for storage at a frozen food locker plant; ***and***

(6) "Sharp frozen" means the freezing of food in a room in which the temperature is zero (0) degrees Fahrenheit or lower.

Section 497. KRS 222.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrator" means the person or the designee of the person, in charge of the operation of an alcohol and other drug abuse prevention, intervention, or treatment program***;***~~[.]~~

(2) "Agency" means a legal entity operating hospital-based or nonhospital-based alcohol and other drug abuse prevention, intervention, or treatment programs***;***~~[.]~~

(3) "Cabinet" means the Cabinet for ***Health Services;***~~[Human Resources.]~~

(4) "Director" means the director of the Division of Substance Abuse of the Department for Mental Health and Mental Retardation Services***;***~~[.]~~

(5) "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical***;***~~[.]~~

(6) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function***;***~~[.]~~

(7) "Juvenile" means any person who is under the age of eighteen (18)***;***~~[.]~~

(8) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900***;***~~[.]~~

(9) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program***;***~~[.]~~

(10) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating alcohol and other drug abuse problems***;***~~[.]~~

(11) "Secretary" means the secretary of the Cabinet for ***Health Services;***~~[Human Resources.]~~

(12) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:

(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;

(b) Use in situations which are potentially physically hazardous;

(c) Loss of control over the use of alcohol or other drugs or both; and

(d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both***;***[~~.~~]

(13) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and alcohol and other drug abusers***; and***[~~.~~]

(14) "Narcotic treatment program" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group.

Section 498. KRS 222.021 is amended to read as follows:

(1) There is hereby created within the Cabinet for ***Health Services***[~~Human Resources~~] a Substance Abuse and Pregnancy Work Group. The work group shall carry out the planning and coordinating activities of the Commonwealth with regard to substance dependency and abuse during pregnancy.

(2) The work group shall be appointed by the Secretary for ***Health Services***[~~Human Resources~~] and be composed of, but not restricted to, a representative of the Cabinet for ***Health Services***[~~Human Resources~~], Department for ***Public*** Health[~~ Services~~], Division of Maternal and Child Health Services; Department for Social Services; Department for Mental Health and Mental Retardation Services, Division of Substance Abuse and Division of Mental Health; Department for Medicaid Services; Justice Cabinet, Department of State Police, Drug Enforcement, Special Investigations Unit; Department of Education, Division of Program Resources; Office of the Attorney General; Office for a Drug Free Kentucky; Regional Community Mental Health and Mental Retardation System; University of Louisville, School of Medicine, Department of Pediatrics; University of Kentucky Medical Center, Department of Obstetrics and Gynecology; local or district health department; Kentucky Psychological Association; Kentucky Pharmacists Association; Kentucky Hospital Association; Kentucky Nurses Association; and the Kentucky Medical Association. The Director of the Division of Substance Abuse shall serve as chairperson.

(3) The work group shall meet at least quarterly and shall periodically assess the extent of alcohol and other substance dependency and abuse among Kentucky women who are pregnant; identify, develop, and coordinate resources available and needed within the Commonwealth for any person who is pregnant and at risk of alcohol and substance dependency or abuse; and identify, develop, and coordinate resources available and needed for infants and children exposed to alcohol or drugs during pregnancy.

(4) The work group shall make an annual report, no later than January 1 of each year, of its activities and any recommendations to the Secretary of the Cabinet for ***Health Services***[~~Human Resources~~] and the Legislative Research Commission.

(5) The provisions of subsections (1) to (4) of this section, creating a Substance Abuse and Pregnancy Work Group shall expire on July 15, 1998. As of that date, the Substance Abuse and Pregnancy Work Group shall cease to exist.

Section 499. KRS 222.037 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] may establish four (4) or more pilot projects within the Commonwealth to demonstrate the effectiveness of different methods of providing community services to prevent alcohol and substance abuse by pregnant females; improving agency coordination to better identify the pregnant substance abuser and other females who have substance abuse problems; linking with community services and treatment for the chemically dependent woman, her children, and other family members; and gaining access to early intervention services for infants in need.

(2) The Cabinet may use any state appropriation and any gifts, grants, or federal funds that become available for the purposes of implementing the provisions of this section.

Section 500. KRS 222.421 is amended to read as follows:

(1) Any person may request treatment from a physician or alcohol and other drug abuse program licensed or approved by the Cabinet for ***Health Services***[~~Human Resources~~] to provide alcohol and other drug abuse treatment services.

(2) Every alcohol and other drug abuse program that provides intervention or treatment services to a person with an alcohol and other drug abuse problem or prevention programming to any persons in the community shall, upon request of the Cabinet for ***Health Services***[~~Human Resources~~], make a statistical report to the secretary, in a form and manner the secretary shall prescribe, of persons provided prevention, intervention, and treatment services during a specified period of time. The name or address of any person to whom prevention, intervention, or treatment services were provided shall not be reported. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall provide compilations of the statistical information to other appropriate agencies upon request.

Section 501. KRS 222.212 is amended to read as follows:

Notwithstanding the provisions of Chapter 13A, all administrative regulations promulgated by the Cabinet for Human Resources relating to the licensing of alcohol and drug abuse prevention, education, and treatment programs and on file with the Legislative Research Commission on July 15, 1994, shall remain in full force and effect unless subsequently amended or repealed by the Cabinet ***for Health Services***.

Section 502. KRS 222.460 is amended to read as follows:

(1) As a requirement to receive state or federal funds, including Medicaid, a treatment center or program licensed as a chemical dependency treatment service pursuant to KRS 216B.105 or this chapter shall participate in an evaluation or client outcome effectiveness study conducted by the Cabinet for ***Health Services***[~~Human Resources~~].

(2) Information for the evaluation shall include, but is not limited to, the following:

   (a) The total number of alcohol and drug abuse clients admitted to treatment;

   (b) The total number of referrals from the District and Circuit Courts and the Department of Corrections;

   (c) The client's change in alcohol and other drug use patterns from admission to discharge from treatment;

   (d) The client's change in employment status from admission to discharge from treatment; and

   (e) The client's change in involvement with the criminal justice system from admission to discharge from treatment.

(3) All information collected pursuant to this chapter shall be held confidential with respect to the identity of individual clients. Access to information that identifies individual clients may be provided to qualified persons or organizations with a valid scientific interest, as determined by the secretary of ***health services***[~~human resources~~], who are engaged in research related to patterns of drug and alcohol use, the effectiveness of treatment, or similar studies and who agree in writing to maintain confidentiality.

Section 503. KRS 222.475 is amended to read as follows:

The Cabinet for ***Health Services***[~~Human Resources~~] shall annually submit to the Governor a treatment center evaluation report. The report shall include, but not be limited to, the following information:

(1) An inventory of all licensed chemical dependency treatment services in Kentucky;

(2) The information submitted by each treatment center or program pursuant to KRS 222.460 and 222.465; and

(3) The employment, educational, and criminal history of clients in each program that received state or federal funds.

Section 504. KRS 223.010 is amended to read as follows:

As used in KRS 223.020 to 223.080, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Health Services***[~~Human Resources~~];

(2) "Registered environmental health specialist or sanitarian" means a person trained in the field of environmental health who has qualified for registration in accordance with the provisions of this chapter;

(3) "Secretary" means the secretary of the Cabinet for ***Health Services***[~~Human Resources~~]; ***and***

(4) "Environmental health activity" means those program areas administered by the state and local health departments including, but not limited to, food protection, control of insect and rodents, radiation, private water supplies, on-site waste, and other environmental program areas. The term does not cover programs not administered by the cabinet.

Section 505. KRS 223.020 is amended to read as follows:

(1) The secretary shall appoint a registered environmental health specialist or a sanitarian examining committee consisting of five (5) members. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall be an ex officio member. The other four (4) members shall be environmental health specialists or sanitarians who are registered under this chapter. The appointed members shall serve for terms of two (2) years and until their successors are appointed and qualify, except that when initial appointments are made under the provisions of this chapter, two (2) members' terms shall be for only one (1) year. Thereafter all appointments shall be for a period of two (2) years.

(2) The examining committee shall conduct, or cause to be conducted, examinations of applicants pursuant to minimum standards and qualifications established by the secretary. The examining committee shall act in an advisory capacity to the secretary in establishing such minimum standards and qualifications.

Section 506. KRS 224.10-194 is amended to read as follows:

There are[~~ hereby~~] transferred to and vested in the commissioner and the Department for ***Public*** Health[~~ Services~~] all functions, powers and duties, funds, personnel, equipment, and supplies relating to septic tank servicing under the provisions of KRS 211.972 to 211.982, which said provisions of law have been conferred upon the Department of Environmental Protection and upon the secretary and other officers and offices of the Department of Environmental Protection.

Section 507. KRS 224.46-820 is amended to read as follows:

(1) There is[~~ hereby~~] created the Kentucky Regional Integrated Waste Treatment and Disposal Facility Siting Board

consisting of nine (9) permanent members and three (3) temporary members. All members shall be residents of the Commonwealth of Kentucky. The secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or his designated representative shall be a permanent member of the board.

(2) The other eight (8) permanent members of the board shall be appointed by the Governor. Except for initial appointments, board members shall be appointed for a term of four (4) years. Of the initial appointments, one (1) shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years, and three (3) for a term of four (4) years. Each of the members appointed by the Governor shall hold office for the term for which he was appointed and until his successor shall have been appointed and taken office in his stead or until he shall resign or be removed in a manner provided by law.

(3) The permanent membership of the board shall be composed of members having the following qualifications:

(a) Two (2) members having a demonstrated experience in hazardous waste management;

(b) Two (2) members from the Kentucky General Assembly;

(c) Two (2) members chosen from the science and engineering faculties of the institutions of higher education in Kentucky;

(d) One (1) member having demonstrated experience in industrial development planning; ***and***

(e) One (1) member representative of the general public.

(4) Three (3) temporary members of the board shall be appointed each time that an application for a certificate of environmental safety and public necessity is submitted. The temporary members of the board shall be appointed by the county judge/executive of the county in which a regional integrated waste treatment and disposal demonstration facility is proposed to be located and shall be bona fide residents of the county. The temporary members of the board shall be appointed within thirty (30) days of the declaration of intent required by KRS 224.46-825 and 224.46-830; however, failure of the appropriate appointing authority to appoint temporary members of the board within thirty (30) days shall not preclude the board from acting upon applications for certificates of environmental safety and public necessity. Temporary members of the board shall have all the rights and privileges of membership on the board while acting upon those applications for certificates for which they were appointed, but shall not participate in the transaction of other business by the board.

(5) The permanent members of the board shall choose from among their membership a chairperson of the board.

(6) Members of the board shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(7) Staff services for the board shall be provided to the extent practicable by personnel of the cabinet; however, the board may request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency and arrange by contract for governmental and nongovernmental assistance as necessary in the performance of its duties, including expenses for administrative start-up costs incidental to the organization of the board. Services provided by state and municipal agencies shall be reimbursed at cost.

(8) The cabinet shall not provide legal representation to the board. The board may enter into personal service contracts pursuant to KRS Chapter 45A to obtain legal counsel for representation on appeals to Franklin Circuit Court and in other legal matters.

(9) The board shall meet as necessary for the performance of its duties, upon the call of the chairperson or upon the request of seven (7) members of the board by delivery of written notice of the meeting to each member of the board at least five (5) days prior to the meeting.

(10) Seven (7) members of the board shall constitute a quorum for the transaction of business of the board and all actions by the board shall require the affirmative vote of seven (7) members of the board.

Section 508. KRS 224.50-836 is amended to read as follows:

(1) The cabinet shall enter into a memorandum of understanding with the Cabinet for ***Health Services***[~~Human Resources~~] in order that the county health departments be utilized to aid in the enforcement of KRS 224.50-820 to 224.50-846. The cabinet shall reimburse the county health departments for expenses incurred to carry out this program.

(2) Violations of KRS 224.50-820 to 224.50-846 shall be subject to the penalties in KRS 224.99-010(8).

Section 509. KRS 224.71-110 is amended to read as follows:

(1) The Agriculture Water Quality Authority is[~~ hereby~~] created and administratively attached to the cabinet. The authority shall be a multidiscipline peer group that shall evaluate, develop, and improve best management practices in conservation plans, compliance plans, and forest stewardship management plans; establish statewide and regional agriculture water quality plans; and otherwise promote soil and water conservation activities that protect waters of the Commonwealth from the adverse impacts of agriculture operations within the Commonwealth. The cabinet shall provide staff to the authority.

(2) Within six (6) months of July 15, 1994, the Soil and Water Conservation Commission shall submit to the Governor for appointment to the Agriculture Water Quality Authority a list of three (3) persons recommended by each of the following

state agencies and organizations:

(a) Kentucky Association of Conservation Districts;
(b) Kentucky Department of Agriculture;
(c) University of Kentucky College of Agriculture Cooperative Extension Service;
(d) Kentucky Farm Bureau Federation, Inc.;
(e) Division of Conservation, Natural Resources and Environmental Protection Cabinet;
(f) Division of Forestry, Natural Resources and Environmental Protection Cabinet;
(g) Kentucky Geological Survey; and
(h) Environmental organizations.

The membership of the Agriculture Water Quality Authority appointed by the Governor shall consist of one (1) representative from each of the groups identified in paragraphs (a) to (h) of this subsection and three (3) members-at-large from agriculture operations. The Soil and Water Conservation Commission shall solicit nominations from Kentucky agriculture operations organizations and submit those names to the Governor for selection of the three (3) members-at-large from agriculture operations. The Governor shall select four (4) members to serve two (2) year initial terms, four (4) members to serve three (3) year initial terms, and three (3) members to serve four (4) year initial terms. All succeeding terms shall be four (4) year terms. A representative from the United States Soil Conservation Service and a representative from the United States Agriculture Stabilization and Conservation Service may also be appointed by the Governor to serve on the authority. One (1) representative each from the Division of Water, Natural Resources and Environmental Protection Cabinet and the Division of Environmental Health and Community Safety, Cabinet for ***Health Services***~~[Human Resources]~~ shall serve as ex officio members.

(3) It shall be the responsibility of the Agriculture Water Quality Authority to establish, at a minimum, the following four (4) committees for agriculture operations, with membership outside the Agriculture Water Quality Authority:

(a) Livestock, including but not limited to, beef, swine, dairy, poultry, and equine;
(b) Crops, including but not limited to, tobacco, corn, soybeans, small grains, fruits and vegetables, pasture and timber;
(c) Pesticides, fertilizers, and other agricultural chemicals; and
(d) Farmstead issues.

(4) The Agriculture Water Quality Authority shall have the following responsibilities:

(a) Review water quality data as available;
(b) Review university research on water quality and alternative best management practices research;
(c) Evaluate the adoption and effectiveness of best management practices, and modify best management practice design standards to improve water quality protection practices;
(d) Develop by July 1, 1996, state-wide agriculture water quality plans to address identifiable water pollution problems from agriculture operations, and continue to evaluate and modify the agriculture water quality plans, as necessary to prevent water pollution from agriculture operations;
(e) Assist with the review of state-funded and other water quality monitoring data and with the establishment of agriculture water priority protection regions;
(f) Provide technical assistance to persons engaged in agriculture operations and to the Soil and Water Conservation Commission in its efforts to coordinate water quality protection as related to agriculture operations;
(g) Work with the United States Soil Conservation Service, United States Agriculture Stabilization and Conservation Service, and conservation districts to disseminate to agriculture operations the best management practices, conservation plans, compliance plans, forest stewardship management plans, and agriculture water quality plans which address the protection of groundwater and surface water;
(h) Provide the Governor and the Legislative Research Commission with biennial reports of the progress of the Agriculture Water Quality Authority program; and
(i) Establish procedures for modifications to be incorporated into state-wide or regional agriculture water quality plans.

(5) The cabinet's Division of Water shall approve or disapprove any statewide and regional water quality plan within thirty (30) days of receiving the plan from the Agriculture Water Quality Authority. All provisions of a statewide or regional water quality plan not found deficient shall be approved. If the Division of Water finds any provision of the statewide or regional agriculture water quality plan deficient, the Division of Water shall give written notice to the authority of those provisions found to be deficient. Within the thirty (30) days following the notice of deficiency, the authority shall deliver to the Division of Water a written response setting forth proposed solutions to the deficiencies. Any deficiencies which

remain unresolved shall be resolved in a manner agreed to jointly by the Division of Water and the authority within sixty (60) days unless the Division of Water and authority jointly agree to an extension or alternate dispute resolution. The Division of Water shall approve or disapprove all modifications to the statewide and regional plans as set forth at KRS 224.71-120(8).

Section 510. KRS 227.560 is amended to read as follows:

(1) There is hereby created the Manufactured Home Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to dealers.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for ***Public*** Health~~[Services]~~, or their designees; and six (6) citizens of the Commonwealth appointed by the Governor, which shall include three (3) manufactured or mobile home dealers, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for ***Public*** Health~~[Services]~~ shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years.

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 511. KRS 227.565 is amended to read as follows:

(1) There is hereby created the Recreational Vehicle Certification and Licensure Board which shall issue certificates of acceptability to qualifying manufacturers and licenses to dealers.

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, the commissioner of the Department for ***Public*** Health~~[Services]~~, or their designees, and six (6) citizens of the Commonwealth appointed by the Governor, which shall include one (1) manufacturer of recreational vehicles and two (2) recreational vehicle dealers, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal, the secretary of the Transportation Cabinet, and the commissioner of the Department for ***Public*** Health~~[Services]~~ shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even numbered years. Each member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the Governor shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years.

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the Governor, and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal. In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board, including time spent in traveling to and from the place of the meeting, hearing or other authorized business. Each member of the board shall also be entitled to reimbursement for travel and other necessary expenses incurred in performing official duties.

(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2)

or more members of the board. A majority of the board shall constitute a quorum to transact business.

(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.

Section 512. KRS 243.895 is amended to read as follows:

(1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Alcoholic Beverage Control Commission, and with gender neutral language supplied by the Cabinet for ***Health Services***[~~Human Resources~~], which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Section 513. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990, unless the context requires otherwise:

(1) "Dog" means any member of the canine family***;***[~~.~~]

(2) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog or has it in his care, or permits it to remain on or about premises owned or occupied by him***;***[~~.~~]

(3) "Veterinarian" means a licensed practitioner of veterinary medicine***;***[~~.~~]

(4) "Qualified person" means a person granted a permit by the secretary for ***health services***[~~human resources~~] to vaccinate animals against rabies and may include owners or operators of licensed kennels***; and***[~~.~~]

(5) "Vaccination" means the injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with the regulations of the secretary for ***health services***[~~human resources~~].

Section 514. KRS 258.015 is amended to read as follows:

Every owner shall have his dog initially vaccinated by the age of four (4) months and revaccinated against rabies at the expiration of the immunization period as certified by the veterinarian. The veterinarian or qualified person who vaccinates a dog shall issue to the owner thereof a vaccination certificate on a form prescribed and supplied by the Cabinet for ***Health Services***[~~Human Resources~~]. The vaccination certificate shall be prepared and issued in triplicate, one (1) copy to be retained by the issuing veterinarian or other qualified person, one (1) copy to be given to the owner of the dog vaccinated, and one (1) copy to be forwarded by the veterinarian or qualified person to the local health department, or, if none is maintained, to the Department for ***Public*** Health[~~ Services~~]. Each certificate shall bear the name and address of the veterinarian or qualified person who issued it. The veterinarian or qualified person shall also furnish each owner with a metal tag bearing a serial number and after January 1, 1980, the year of expiration of the immunization period. The tag may bear the name of the veterinarian or qualified person issuing it. It shall be affixed by the owner to a collar or harness furnished by him and shall be worn by the dog for which the certificate was issued. No one except the owner or his duly authorized agent shall remove the collar with the attached tag from the dog. Prior to their initial officially-recorded vaccination against rabies, all dogs shall be confined to the premises of the owner.

Section 515. KRS 258.035 is amended to read as follows:

Any owner who has had his dog vaccinated against rabies in another state by the proper authority therein shall not be required to have such dog revaccinated when brought into this state provided the requirements of such state under which the vaccination was made were of a standard not lower than those required in this state and provided further that such dog wears a tag affixed to his collar or harness bearing the date of such vaccination. One (1) year after the date of such vaccination such dog must be revaccinated unless provided otherwise by the rules and regulations of the secretary for ***health services***[~~human resources~~]. The secretary for ***health services***[~~human resources~~] may make rules and regulations governing the matter of reciprocity with other states.

Section 516. KRS 258.043 is amended to read as follows:

(1) Whenever a local board of health determines or is notified by the Cabinet for ***Health Services***[~~Human Resources~~] that the rabies immunization level among dogs is low in the county or any portion thereof, the local health department shall sponsor mass immunization clinics at strategic locations and intervals throughout the area designated. The local health department shall contract with local veterinarians to administer the vaccine. If the services of veterinarians are not available in the area, the local health department may contract with other veterinarians or qualified persons designated by the Cabinet for ***Health Services***[~~Human Resources~~]. A reasonable fee, not to exceed five dollars ($5), designated by the local board of health may be collected from each owner to help defray the cost of the clinic program.

(2) Vaccination and licensing procedures may be jointly conducted at the clinics.

(3) No owner shall be required to have his dog vaccinated at a public clinic if he elects to have his dog vaccinated privately by a veterinarian of his choice.

Section 517. KRS 258.055 is amended to read as follows:

Whenever a local board of health has reason to believe or has been notified by the Cabinet for ***Health Services***[~~Human Resources~~] that there is danger that rabies may spread within the county or any portion thereof, the board shall publish a notice requiring owners of dogs or other specified animals in the area designated to confine the animals for such periods as may be necessary to prevent the spread of rabies. If it is deemed advisable in the interest of public health, the local board of health shall order all dogs in the area revaccinated against rabies, and if the local board fails or neglects to do so, the Cabinet for ***Health Services***[~~Human Resources~~] may order the revaccination of all dogs or other animals in the area except animals that have been previously vaccinated within the past six (6) months under the provisions of KRS 258.005 to 258.085. The Cabinet for ***Health Services***[~~Human Resources~~] may aid the local health department in the execution of such emergency vaccinations.

Section 518. KRS 258.075 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] may administer the provisions of KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990 through the local health departments and may make such rules and regulations and employ such personnel as are necessary to effectuate the purposes of KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990.

Section 519. KRS 258.085 is amended to read as follows:

A health officer or his agent shall have the authority to quarantine for a period not to exceed one hundred eighty (180) days any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed ten (10) days any animal which has bitten a human being or which exhibits symptoms of rabies. An animal so quarantined may be confined by the health officer at a designated place at the owner's expense. Whenever a dog dies with rabies or is suspected of having died with rabies or is destroyed because of having been suspected of being rabid, the owner thereof, whether the dog had been previously quarantined or not, shall at his own expense send the head of such dog to a laboratory approved by the secretary for ***health services***[~~human resources~~] in the manner prescribed by the rules and regulations of the secretary for ***health services***[~~human resources~~].

Section 520. KRS 258.365 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit or limit the right of any city to pass or enforce any ordinance with respect to the regulation of dogs, the provisions of which are not inconsistent with the provisions of this chapter. Nothing in this chapter shall be construed to repeal any of the provisions of the fish and game laws of the Commonwealth of Kentucky now in effect, nor any laws relating to the powers and duties of the secretary for ***health services***[~~human resources~~], or any health officer relating to mad dogs or dogs affected with any disease, or to prohibit the destroying of licensed or unlicensed dogs in accordance with the provisions of any quarantine regulations, made in accordance with the provisions of any local or state health law.

Section 521. KRS 304.12-013 is amended to read as follows:

(1) The purpose of this section is to prohibit unfair or deceptive practices in the transaction of life and health insurance with respect to the human immunodeficiency virus infection and related matters. This section applies to all life and health insurance contracts which are delivered or issued for delivery in Kentucky on or after July 13, 1990.

(2) This section shall not prohibit an insurer from contesting the validity of an insurance contract or whether a claim is covered under an insurance contract to the extent allowed by law.

(3) As used in this section:

(a) "Human immunodeficiency virus (HIV)" means the causative agent of acquired immunodeficiency syndrome (AIDS) or any other type of immunosuppression caused by the human immunodeficiency virus.

(b) "Insurance contract" means a contract issued by an insurer as defined in this section; and

(c) "Insurer" means an insurer, a nonprofit hospital, medical-surgical, dental, and health service corporation, a health maintenance organization, or a prepaid dental plan organization.

(4) (a) In the underwriting of an insurance contract regarding human immunodeficiency virus infection and health conditions derived from such infection, the insurer shall utilize medical tests which are reliable predictors of risk. Only a test which is recommended by the Centers for Disease Control or by the Food and Drug Administration is deemed to be reliable for the purposes of this section. If a specific Centers for Disease Control or Food and Drug Administration recommended test indicates the existence or possible existence of human immunodeficiency virus infection or a health condition related to the human immunodeficiency virus infection, before relying on a single test to deny issuance of an insurance contract, limit coverage under an insurance contract, or to establish the premium for an insurance contract, the insurer shall follow the applicable Centers for Disease Control or Food and Drug Administration recommended test protocol and shall utilize any applicable Centers for Disease Control or Food and Drug Administration recommended follow-up tests or series of tests to confirm the indication.

(b) Prior to testing, the insurer shall disclose in writing its intent to test the applicant for the human immunodeficiency virus infection or for a specific health condition derived therefrom and shall obtain the applicant's written informed consent to administer the test. Written informed consent shall include a fair explanation of the test, including its purpose, potential uses and limitations, the meaning of its results, and the right to confidential treatment of information. Use of a form prescribed by the department shall raise a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant, or, in the absence of such designation, by the Cabinet for ***Health Services***[~~Human Resources~~]. The notification shall include:

1. Face-to-face post test counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others;
2. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;
3. The benefits of locating and counseling any person by whom the infected person may have been exposed to human immunodeficiency virus and any person whom the infected person may have exposed to the virus; and
4. The availability, if any, of the services of public health authorities with respect to locating and counseling any person described in subparagraph 3 of this paragraph.

(d) A medical test for human immunodeficiency virus infection or for a health condition derived from the infection shall only be required or given to an applicant for an insurance contract on the basis of the applicant's health condition or health history, on the basis of the amount of insurance applied for, or if the test is required of all applicants.

(e) An insurer may ask whether an applicant for an insurance contract has been tested positive for human immunodeficiency virus infection or other health conditions derived from such infection. Insurers shall not inquire whether the applicant has been tested for or has received a negative result from a specific test for human immunodeficiency virus infection or for a health condition derived from such infection.

(f) Insurers shall maintain strict confidentiality of the results of tests for human immunodeficiency virus infection or a specific health condition derived from human immunodeficiency virus infection. Information regarding specific test results shall be disclosed only as required by law or pursuant to a written request or authorization by the applicant. Insurers may disclose results pursuant to a specific written request only to the following persons:

1. The applicant;
2. A licensed physician or other person designated by the applicant;
3. An insurance medical information exchange under procedures that are used to assure confidentiality, such as the use of general codes that also cover results of tests for other diseases or conditions not related to human immunodeficiency virus infection;
4. For the preparation of statistical reports that do not disclose the identity of any particular applicant;
5. Reinsurers, contractually retained medical personnel, and insurer affiliates if these entities are involved solely in the underwriting process and under procedures that are designed to assure confidentiality;
6. To insurer personnel who have the responsibility to make underwriting decisions; and
7. To outside legal counsel who needs the information to represent the insurer effectively in regard to matters concerning the applicant.

(g) Insurers shall use for the processing of human immunodeficiency virus related tests only those laboratories that are certified by the United States Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, which permit testing of specimens in interstate commerce, and which subject themselves to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control.

(5) (a) An insurance contract shall not exclude coverage for human immunodeficiency virus infection. An insurance contract shall not contain benefit provisions, terms, or conditions which apply to human immunodeficiency virus infection in a different manner than those which apply to any other health condition. Insurance contracts which violate this paragraph shall be disapproved by the commissioner pursuant to KRS 304.14-130(1)(a), 304.32-160, 304.38-050, and 304.43-030.

(b) A health insurance contract shall not be canceled or nonrenewed solely because a person or persons covered by the contract has been diagnosed as having or has been treated for human immunodeficiency virus infection.

(c) Sexual orientation shall not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the human immunodeficiency virus infection. Neither the marital status, the living arrangements, the occupation, the gender, the beneficiary designation, nor the zip code or other territorial classification of an applicant's sexual orientation.

(d) This subsection does not prohibit the issuance of accident only or specified disease insurance contracts.

Section 522. KRS 304.17-412 is amended to read as follows:

(1) Every health insurer proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***[~~Human Resources~~] under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The insurer is in compliance with subsection (1) of this section.

Section 523. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281***;***[~~.~~]

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020***;***[~~.~~]

(3) "Alliance member" means both mandatory and voluntary alliance members***;***[~~.~~]

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices***;***[~~.~~]

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees***;***[~~.~~]

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board***;***[~~.~~]

(8) "Consumer" means an individual user of health care services***;***[~~.~~]

(9) "Department" means the Kentucky Department of Insurance***;***[~~.~~]

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision***;***[~~.~~]

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A***;***[~~.~~]

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky***;***[~~.~~]

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to

Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department***;***[~~.~~]

(14) "Health status" means an assessment of an individual's mental and physical condition***;***[~~.~~]

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care***;***[~~.~~]

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans***;***[~~.~~]

(17) (a) "Mandatory alliance member" means:

1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;

2. Elected and salaried employees of local school districts;

3. Employees of local and district health departments;

4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and

5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:

a. The Cabinet for ***Health Services***[~~Human Resources~~] determines enrolling Medicaid recipients in the alliance to be practicable; and

b. Necessary waivers are obtained by the Cabinet for ***Health Services***[~~Human Resources~~] from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.

(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994***;***[~~.~~]

(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract***;***[~~.~~]

(18) "Medical outcomes" means a change in an individual's health status after the provision of health services***;***[~~.~~]

(19) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals***;***[~~.~~]

(20) "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals***;***[~~.~~]

(21) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees***;***[~~.~~]

(22) "Utilization management" means programs designed to control the overutilization of health services by reviewing their

appropriateness relative to established standards or norms***; and***[~~.~~]

(23) "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts.

Section 524. KRS 304.17A-160 is amended to read as follows:

(1) The department shall define five (5) standard health benefit plans, one (1) of which shall be a basic benefit plan and one (1) of which shall provide coverage exactly comparable to the coverage provided under Kentucky Kare Standard as of January 1, 1994. All standard health benefit plans defined by the Kentucky Health Policy Board prior to July 15, 1996, shall continue as standard health benefit plans until the department amends or replaces the existing standard health benefit plans. The department may approve additional standard benefit plans pursuant to KRS 304.17A-080.

(2) Notwithstanding any other provision of this chapter to the contrary, on and after July 15, 1995:

(a) No insurer doing business in Kentucky shall issue or renew health benefit plans other than the standard health benefit plans established by the department and the supplemental plans approved by the department pursuant to paragraph (c) of this subsection except as provided in paragraph (f) of this subsection, and any of the standard health benefit plans and supplemental plans offered shall be offered on a guaranteed-issue basis to any applicant who has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy;

(b) Every insurer shall, as a condition of transacting business in this state, offer and issue the basic health benefit plan on a guaranteed-issue basis;

(c) Each insurer may offer supplemental policies that are approved by the department and that are advertised, marketed, and designed as a supplement to the standard health benefit plans. No benefits paid under the supplemental policies shall duplicate benefits paid under the standard health benefit plans.

(d) An insurer may elect to offer health benefit plans only to individuals and groups that purchase coverage through the Kentucky Health Purchasing Alliance and not offer coverage to individuals and groups that purchase coverage outside the alliance;

(e) No insurer shall exclude any eligible person or dependent, who would otherwise be covered under a group health benefit plan, on the basis of an actual or expected health condition of the person; and

(f) Any person or group covered on July 15, 1996, by a health benefit plan which is not a standard plan may, until the date twelve (12) months after July 15, 1996, elect to renew the current coverage as long as the benefits provided remain exactly the same and renewal is guaranteed.

(3) Each of the standard and supplemental health benefit plans shall be in two (2) forms, one (1) of which shall be in the form of insurance and the second of which shall be consistent with the basic method of operation and benefit plans of health maintenance organizations, including federally-qualified health maintenance organizations or integrated health networks. Each of the standard and supplemental plans shall provide for two (2) levels of cost sharing. The department and the Health Insurance Advisory Council shall take into consideration the levels of benefits provided in health benefit plans in Kentucky and appropriate medical and economic factors. The plans shall include cost containment features, such as utilization review of health care services, including review of medical necessity of hospital and physician services; hospice care at least equal to the Medicare benefits; case management benefit alternatives; selective contracting with hospitals, physicians, and other health care providers; reasonable benefit differentials applicable to participating and nonparticipating providers; and other managed care provisions. If a standard or supplemental health benefit plan issued by an insurer covers services which the plan's beneficiaries lawfully obtain from health departments established pursuant to KRS Chapter 212 in medically-underserved areas designated by the Cabinet for ***Health Services***[~~Human Resources~~], that insurer shall pay the plan's established rate for those services to the health department.

(4) All policies and contracts providing health care benefits issued or renewed on or after July 15, 1995, except as provided in paragraph (f) of subsection (2) of this section, shall be uniform in structure, language, designation, and format to the standard benefit plans defined by the department or shall be a supplemental plan based on a standard plan, and shall be filed with and approved by the department before being delivered or issued for delivery in Kentucky.

(5) The department shall inform residents of Kentucky of the existence and provisions of the standard benefit plans. The

department shall develop an outline and chart of coverage that describes the features of each of the standard benefit plans available in Kentucky. The department shall broadly publicize a twenty-four (24) hour toll-free telephone number for information on health care benefit plans available in Kentucky.

(6) Any insurer that between July 15, 1994, and July 15, 1995, knowingly and willfully terminates coverage of any insured or dependent solely because the insured is eligible for coverage through a health purchasing alliance shall be prohibited from issuing or delivering any health benefit plan in the Commonwealth for a period of five (5) years from the date of exclusion.

(7) All standard health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(8) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

Section 525. KRS 304.18-045 is amended to read as follows:

(1) Every health insurer proposing to issue or deliver in this state a group or blanket health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, an insurer shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***~~[Human Resources]~~ under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The insurer is in compliance with subsection (1) of this section.

Section 526. KRS 304.32-147 is amended to read as follows:

(1) Every nonprofit hospital, medical-surgical, dental, and health service corporation proposing to issue or deliver in this state a health insurance policy or contract or administer a health benefit program which provides for the coverage of hospital benefits and the utilization review of those benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, a nonprofit hospital, medical-surgical, dental, and health service corporation shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***~~[Human Resources]~~ under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The nonprofit hospital, medical-surgical, dental, and health service corporation is in compliance with subsection (1) of this section.

Section 527. KRS 304.38-225 is amended to read as follows:

(1) Every health maintenance organization in this state which provides coverage of hospital benefits and requires the utilization review of such benefits or administers a health benefit program which provides for the coverage of hospital benefits and requires the utilization review of such benefits by a private review agent shall:

(a) Be a registered private review agent in accordance with KRS 211.462; or

(b) Contract with a private review agent that has been registered in accordance with KRS 211.462.

(2) Notwithstanding any other provision of KRS 211.461 to 211.466, a health maintenance organization shall not deny or reduce payment of health benefits to any person, licensed practitioner, or health facility for covered services which have been rendered to an insured unless:

(a) Notice of denial has been issued. The notice shall inform patients and health care providers of their right to appeal adverse determinations of the private review agent to the Cabinet for ***Health Services***~~[Human Resources]~~ under the dispute resolution process established pursuant to KRS 211.464(1)(g). The notice shall also include instructions on filing an appeal to the cabinet; and

(b) The health maintenance organization is in compliance with subsection (1) of this section.

Section 528. KRS 311.131 is amended to read as follows:

As used in KRS 311.131 to 311.139:

(1) "Utilization review" means a set of techniques used by or on behalf of purchasers of health benefits to manage health care costs by influencing patient care decision making through case-by-case assessments of the appropriateness of care prior to its provision;

(2) "Private review agent" means a nonhospital-affiliated person or entity that contracts to provide utilization review for:

(a) An employer who provides health insurance benefits; or

(b) A third party payer that provides or administers hospital and medical benefits to citizens of this state, including a health maintenance organization, a health insurer, nonprofit health service plan, health insurance service organization, or preferred provider organization or other entity offering health insurance policies, contracts, or benefits in this Commonwealth;

(3) "Utilization review plan" means a description of the utilization review procedures of a private review agent;

(4) "Cabinet" means the Cabinet for ***Health Services***~~[Human Resources]~~; and

(5) "Certificate" means a certificate of registration granted by the Cabinet for ***Health Services***~~[Human Resources]~~ to a private review agent.

Section 529. KRS 311.132 is amended to read as follows:

(1) A private review agent which approves or disapproves payment or the rendering of services, or both, or who recommends approval or denial of payment for hospital or medical services or whose review results in approval or denial of payment for hospital or medical services on a case-by-case basis shall not conduct utilization review in this state unless the Cabinet for ***Health Services***~~[Human Resources]~~ has granted the private review agent a certificate.

(2) (a) The cabinet may waive the requirements of KRS 311.131 to 311.139 for the activities of a private review agent in connection with a contract with the federal government for utilization review of patients eligible for hospital and medical services under the Social Security Act.

(b) No certificate is required for those private review agents conducting general in-house utilization review for hospitals, home health agencies, preferred provider organizations, or other managed care entities, clinics, private offices or any other health facility or entity, so long as the review does not result in the approval or denial of payment for hospital or medical services for a particular case. The general in-house utilization review shall be exempt from the provisions of KRS 311.131 to 311.139.

(c) No certificate shall be required for utilization review by any licensed pharmacist or pharmacy, organizations of either, while engaged in the practice of pharmacy, including, but not limited to, dispensing of drugs, participation in drug utilization reviews, and monitoring patient drug therapy.

(d) The cabinet shall waive the requirements of KRS 311.135 except for the application fee for the activities of a private review agent, certified under the law of another state, where the certification procedures of the other state are at least as stringent as those of KRS 311.135.

(3) A certificate issued under the provisions of KRS 311.131 to 311.139 shall not be transferable.

Section 530. KRS 311.133 is amended to read as follows:

(1) The Cabinet for ***Health Services***~~[Human Resources]~~ shall adopt regulations to implement the provisions of KRS 311.131 to 311.139.

(2) Any information required by the cabinet with respect to customers, patients, or utilization review procedures of a private review agent shall be held in confidence and not disclosed to the public.

(3) The cabinet may establish reporting requirements to:

(a) Evaluate the effectiveness of private review agents; and

(b) Determine if the utilization review programs are in compliance with the provisions of KRS 311.131 to 311.139 and applicable regulations.

Section 531. KRS 311.241 is amended to read as follows:

(1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a condition of licensure, establish an organ procurement for transplant protocol, in consultation with a federally-certified organ procurement organization, which encourages organ donation and identifies potential organ donors.

(2) When an individual has died or has been identified by a medical hospital staff member as having a terminal condition and is further identified as a potential organ donor and meets the criteria set forth in the hospital's organ procurement for transplant protocol, the hospital administrator or his official designee shall then notify the federally-certified organ procurement organization of the potential availability of the organ. The notification of the federally certified organ procurement organization as to the identity of a potential organ donor shall be documented in such patient's medical record. Any identified contraindication to organ donation shall be documented in the patient's medical record.

(3) Any hospital licensed under the provisions of KRS Chapter 216B which performs any transplantable organ transplant shall report to the Cabinet for ***Health Services***[~~Human Resources~~], Office of the Inspector General, any information relating to the possible sale, purchase, or brokering of a transplantable organ.

Section 532. KRS 311.250 is amended to read as follows:

No itinerant medical company of two (2) or more persons shall travel as a troupe or company as vendors of any drug, nostrum, or instrument intended for the treatment of any disease or injury, or by any writing or printing profess to the public to treat disease or deformity by the use of any drug, nostrum, or instrument without first obtaining a license from the secretary for ***health services***[~~human resources~~]. The fee for such license shall be one hundred dollars ($100) per month. The secretary shall issue licenses to reputable and worthy applicants upon payment of the fee each month, but may for sufficient cause refuse to issue such license.

Section 533. KRS 311.378 is amended to read as follows:

(1) All physicians licensed pursuant to this chapter who maintain a private office shall post in a prominent place in the patient waiting room a printed sign supplied by the Cabinet for ***Health Services***[~~Human Resources~~] that is at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high and with gender neutral language, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.

(2) Any person who violates the provisions of subsection (1) of this section shall be subject to a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

Section 534. KRS 311.530 is amended to read as follows:

There is hereby created in state government an independent board to be known as the State Board of Medical Licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the State Board of Health. The offices of the board shall be maintained at such place as is designated by the board. The board shall consist of thirteen (13) members, including the commissioner of ***public*** health[~~services~~], the dean of the University of Kentucky College of Medicine, the dean of the University of Louisville School of Medicine and ten (10) members appointed by the Governor. One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association. Seven (7) members shall be licensed medical physicians and shall be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. Two (2) members shall be citizens at large who are representatives of any recognized consumer advocacy groups with an interest in the delivery of health care and are not associated with or financially interested in the practice or business regulated.

Section 535. KRS 311.535 is amended to read as follows:

The appointed members of the State Board of Medical Licensure shall hold office for terms of four (4) years and until their successors are appointed and qualify. The commissioner of ***public*** health[~~services~~] and the deans of the medical schools shall hold office only while holding their respective titles. All appointed members who held office as of January 1, 1986, shall continue to hold office until the expiration of their respective terms. The terms of all appointed members of the board shall expire on August 31 of the last year of their respective terms.

Section 536. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for ***Health Services***~~[Human Resources]~~, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for ***Health Services***~~[Human Resources]~~ by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding; and

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 537. KRS 311.623 is amended to read as follows:

(1) An adult with decisional capacity may make a written living will directive that does any or all of the following:
  (a) Directs the withholding or withdrawal of life-prolonging treatment; or
  (b) Directs the withholding or withdrawal of artificially provided nutrition or hydration; or
  (c) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise.

(2) Except as provided in KRS 311.633, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

(3) For purposes of KRS 311.621 to 311.643, notification to any emergency medical responder as defined by KRS Chapter 211 or any paramedic as defined by KRS Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized only if on a standard form or identification approved by the Kentucky Board of Medical Licensure, in consultation with the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 538. KRS 311.653 is amended to read as follows:

The Board of Medical Licensure shall, by regulation, require an applicant for certification as a paramedic to have completed a Cabinet for ***Health Services***~~[Human Resources]~~ approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 539. KRS 311.654 is amended to read as follows:

(1) The Board of Medical Licensure shall promulgate administrative regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and certification of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of certificates, and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

(2) Any continuing education required by the Board of Medical Licensure shall include a Cabinet for ***Health Services***~~[Human Resources]~~ approved educational course on the transmission, control, treatment, and prevention of the

human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

(3) The Kentucky Board of Medical Licensure shall enter into an agreement with the Cabinet for ***Health Services***[~~Human Resources~~] whereby the cabinet's lead agency for emergency medical services shall carry out the day-to-day administration of this section under administrative regulations promulgated by the Board of Medical Licensure. The Kentucky Emergency Medical Services Council will provide advice and recommendations to the Kentucky Board of Medical Licensure related to the provisions of KRS 311.650 to 311.658.

Section 540. KRS 311.720 is amended to read as follows:

As used in KRS 311.710 to 311.820, and laws of the Commonwealth unless the context otherwise requires:

(1) "Abortion" shall mean the use of any means whatsoever to terminate the pregnancy of a woman known to be pregnant with intent to cause fetal death***;***[~~.~~]

(2) "Hospital" shall mean those institutions licensed in the Commonwealth of Kentucky pursuant to the provisions of KRS Chapter 216***;***[~~.~~]

(3) "Consent" as used in KRS 311.710 to 311.820 with reference to those who must give their consent shall mean an informed consent expressed by a written agreement to submit to an abortion on a written form of consent to be promulgated by the secretary for ***health services;***[~~human resources.~~]

(4) "Cabinet" shall mean the Cabinet for ***Health Services***[~~Human Resources~~] of the Commonwealth of Kentucky***;***[~~.~~]

(5) "Fetus" shall mean a human being from fertilization until birth***;***[~~.~~]

(6) "Human being" shall mean any member of the species homo sapiens from fertilization until death***;***[~~.~~]

(7) "Physician" shall mean any person licensed to practice medicine in the Commonwealth or osteopathy pursuant to the provisions of this chapter***;***[~~.~~]

(8) "Viability" shall mean that stage of human development when the life of the unborn child may be continued by natural or life-supportive systems outside the womb of the mother***; and***[~~.~~]

(9) "Accepted medical procedures" shall mean procedures of the type performed in the manner and in a facility with equipment sufficient to meet the standards of medical care which physicians engaged in the same or similar lines of work, would ordinarily exercise and devote to the benefit of their patients.

Section 541. KRS 311.732 is amended to read as follows:

(1) For purposes of this section the following definitions shall apply:

(a) "Minor" means any person under the age of eighteen (18);

(b) "Emancipated minor" means any minor who is or has been married or has by court order or otherwise been freed from the care, custody, and control of her parents; and

(c) "Abortion" means the use of any instrument, medicine, drug or any other substance or device with intent to terminate the pregnancy of a woman known to be pregnant with intent other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus.

(2) No person shall perform an abortion upon a minor unless:

(a) The attending physician or his agent secured the informed written consent of the minor and one (1) parent or legal guardian;

(b) The minor is emancipated and the attending physician or his agent has received the informed written consent of the minor; or

(c) The minor elects to petition any Circuit or District Court of the Commonwealth pursuant to subsection (3) of this section and obtain an order pursuant to subsection (4) of this section granting consent to the abortion and the attending physician or his agent has received the informed written consent of the minor.

(3) Every minor shall have the right to petition any Circuit or District Court of the Commonwealth for an order granting the right to self-consent to an abortion pursuant to the following procedures:

(a) The minor or her next friend may prepare and file a petition setting forth the request of the minor for an order of consent to an abortion;

(b) The court shall insure that the minor prepares or her next friend is given assistance in preparing and filing the petition and shall insure that the minor's identity is kept anonymous;

(c) The minor may participate in proceedings in the court on her own behalf or through her next friend and the court shall appoint a guardian ad litem for her. The court shall advise her that she has a right to court appointed counsel and shall provide her with such counsel upon her request;

(d) All proceedings under this section shall be anonymous and shall be given preference over other matters to insure that the court may reach a decision promptly, but in no case shall the court fail to rule within seventy-two (72) hours of the time of application, provided that the seventy-two (72) hour limitation may be extended at the request of the minor; and

(e) The court shall hold a hearing on the merits of the petition before reaching a decision. The court shall hear evidence at the hearing relating to the emotional development, maturity, intellect, and understanding of the minor; the nature, possible consequences, and alternatives to the abortion; and any other evidence that the court may find useful in determining whether the minor should be granted majority rights for the purpose of consenting to the abortion or whether the abortion is in the best interest of the minor.

(4) The court shall enter a written order, making specific factual findings and legal conclusions supporting its decision as follows:

(a) Granting the petition for an abortion if the court finds that the minor is mature and well-informed enough to make the abortion decision on her own;

(b) Granting consent to the abortion if the court finds that the performance of the abortion would be in the minor's best interest; or

(c) Deny the petition, if the court finds that the minor is immature and that performance of the abortion would not be in the minor's best interest.

(5) Any minor shall have the right of anonymous and expedited appeal to the Court of Appeals, and that court shall give precedence over other pending matters.

(6) No fees shall be required of any minor who declares she has no sufficient funds to pursue the procedures provided by this section.

(7) The Supreme Court is respectfully requested to promulgate any rules and regulations it feels are necessary to ensure that proceedings under this section are handled in an expeditious and anonymous manner.

(8) The requirements of subsections (2), (3), and (4) of this section shall not apply when, in the best medical judgment of the physician based on the facts of the case before him, a medical emergency exists that so complicates the pregnancy as to require an immediate abortion. A physician who does not comply with subsection (2), (3), or (4) of this section due to the utilization of this exception shall certify in writing the medical indications upon which his judgment was based.

(9) A report indicating the basis for any medical judgment that warrants failure to obtain consent pursuant to this section shall be filed with the Cabinet for ***Health Services***~~[Human Resources]~~ on a form supplied by the cabinet. This report shall be confidential.

(10) Failure to obtain consent pursuant to the requirements of this section is prima facie evidence of failure to obtain informed consent and of interference with family relations in appropriate civil actions. The law of this state shall not be construed to preclude the award of exemplary damages in any appropriate civil action relevant to violations of this section. Nothing in this section shall be construed to limit the common law rights of parents.

Section 542. KRS 311.908 is amended to read as follows:

(1) The Board of Medical Licensure is hereby authorized to certify athletic trainers consistent with the provisions of KRS 311.902 to 311.928 and to adopt rules and regulations necessary for the performance of its duties.

(2) The board shall prescribe application forms for certification.

(3) The board shall establish guidelines for athletic trainers in the state and conduct a certification examination based on recommendations of the council.

(4) The board shall require, as a part of any continuing education requirement, persons certified as athletic trainers to complete a Cabinet for ***Health Services***~~[Human Resources]~~ approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 543. KRS 311.935 is amended to read as follows:

(1) No later than one (1) year after July 13, 1984, the McDowell Cancer Network, Inc. and the James Graham Brown Cancer Center shall jointly develop and submit to the Cabinet for ***Health Services***~~[Human Resources]~~ and may periodically update a standardized written summary, in layman's language and in language understood by the patient, of the advantages, disadvantages, risks and descriptions of all medically efficacious and viable alternatives for the treatment of breast cancer.

(2) The Cabinet for ***Health Services***~~[Human Resources]~~, within ninety (90) days of receipt of the summary, shall print and make available to all licensed physicians in the Commonwealth sufficient copies of the standardized written summary for distribution by such physicians to their patients.

(3) Upon receipt of the summary, any physician licensed under the laws of the Commonwealth who treats a patient for any form of breast cancer shall provide the patient with a standardized written summary, as provided under this section, informing the patient of medically efficacious and viable alternative methods of treatment for breast cancer which may include surgical, radiological or chemotherapeutic treatment or combinations thereof.

Section 544. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for ***Health Services***~~[Human Resources]~~, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.

(27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 545. KRS 311.991 is amended to read as follows:

Any person who manufactures, distributes, sells, or prescribes amygdalin (laetrile) in violation of the standards established by the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] shall be punished by a fine of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), or by imprisonment in the county jail for a period not to exceed six (6) months, or both. Each day of violation shall constitute a separate offense.

Section 546. KRS 314.142 is amended to read as follows:

(1) The Kentucky Board of Nursing shall promulgate administrative regulations pursuant to KRS Chapter 13A to create a Sexual Assault Nurse Examiner Program. These administrative regulations shall address, at a minimum:

(a) Educational requirements for sexual assault nurse examiners and statewide standards for provision of the education;

(b) The application process through which registered nurses who submit documentation of required education and clinical experience and who remit the designated application fee may apply to the board to be credentialed as a "Sexual Assault Nurse Examiner";

(c) Continuing education requirements for maintenance of the sexual assault nurse examiner credential; and

(d) Methods of monitoring overall program implementation.

(2) For the purpose of providing recommendations to the Kentucky Board of Nursing on the development and implementation of the Sexual Assault Nurse Examiner Program, there is hereby created a fourteen (14) member Sexual Assault Nurse Examiner Advisory Council. The following members shall serve on the council by virtue of their office: the executive director of the Kentucky Board of Nursing or the executive director's designee; the executive director of the Kentucky Hospital Association or the executive director's designee; the state medical examiner or the examiner's designee; the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or the secretary's designee; the president of the Statewide Association of Rape Crisis Centers or the president's designee; the commissioner of the Department for ***Public*** Health[~~ Services~~] of the Cabinet for ***Health Services***[~~Human Resources~~] or the commissioner's designee; the chair of the Council on Postsecondary Education or the chair's designee; the director of the Victim's Advocacy Division of the Office of the Attorney General or the director's designee; the director of the Prosecutors Advisory Council of the Office of the Attorney General or the director's designee; and the director of the Kentucky State Police Crime Lab or the director's designee. Two (2) members shall be registered nurses with forensic experience appointed by the Governor from a list of three (3) names recommended by the Kentucky Nurses Association. Two (2) members with a demonstrated interest and experience in victims' services shall be appointed by the Governor to serve as at-large members. Of the at-large members, one (1) shall be appointed from a list of three (3) names recommended by the Kentucky Board of Nursing and one (1) from a list of three (3) names recommended by the Cabinet for ***Health Services***[~~Human Resources~~].

(3) Members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The chair of the advisory council shall be elected by a majority vote of council members.

(5) Each member of the council may be reimbursed for necessary expenses incurred in attending its meetings from funds available through the collection of fees required under subsection (1) of this section.

Section 547. KRS 315.035 is amended to read as follows:

(1) No person shall operate a pharmacy without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain

such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars ($250).

(2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars ($250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.

(3) A separate permit to operate shall be required for each pharmacy.

(4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars ($250) nor to increase more than twenty-five dollars ($25) per year. An additional fee not to exceed the annual renewal fee may be assessed as a penalty for failure to renew by August 1 of each year.

(5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.

(6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for ***Health Services***[~~Human Resources~~] or a local health department.

Section 548. KRS 315.121 is amended to read as follows:

(1) The board may refuse to issue or renew a license, permit, or certificate to, or may suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensee, permit holder, or certificate holder for the following reasons:

(a) Unprofessional or unethical conduct;

(b) Mental or physical incapacity that prevents the licensee, permit holder, or certificate holder from engaging in the practice of pharmacy or the wholesale distribution or manufacturing of drugs with reasonable skill, competence, and safety to the public;

(c) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more or the following:

1. A felony;

2. An act involving moral turpitude or gross immorality; or

3. A violation of the pharmacy or drug laws, rules, or administrative regulations of this state, any other state, or the federal government;

(d) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician is incapable of engaging or assisting in the practice of pharmacy with reasonable skill, competence, and safety to the public and failing to report any relevant information to the board;

(e) Knowingly making or causing to be made any false, fraudulent, or forged statement or misrepresentation of a material fact in securing issuance or renewal of a license, permit, or certificate;

(f) Engaging in fraud in connection with the practice of pharmacy or the wholesale distribution or manufacturing of drugs;

(g) Engaging in or aiding and abetting an individual to engage in the practice of pharmacy without a license or falsely using the title of "pharmacist," "pharmacist intern," or other term which might imply that the individual is a pharmacist or pharmacist intern;

(h) Being found by the board to be in violation of any provision of this chapter, KRS Chapter 217, KRS Chapter 218A, or the administrative regulations promulgated pursuant to these chapters;

(i) Violation of any order issued by the board to comply with any applicable law or administrative regulation; or

(j) Knowing or having reason to know that a pharmacist, pharmacist intern, or pharmacy technician has engaged in or aided and abetted the unlawful distribution of legend medications, and failing to report any relevant information to the board.

(2) Unprofessional or unethical conduct includes, but is not limited to, the following acts of a pharmacist or pharmacist intern:

(a) Publication or circulation of false, misleading, or deceptive statements concerning the practice of pharmacy;

(b) Divulging or revealing to unauthorized persons patient information or the nature of professional services rendered without the patient's express consent or without order or direction of a court. In addition to members, inspectors, or agents of the board, the following are considered authorized persons:

1. The patient, patient's agent, or another pharmacist acting on behalf of the patient;

2. Certified or licensed health care personnel who are responsible for care of the patient;

3. Designated agents of the Cabinet for ***Health Services***~~[Human Resources]~~ for the purposes of enforcing the provisions of KRS Chapter 218A;

4. Any federal, state, or municipal officer whose duty is to enforce the laws of this state or the United States relating to drugs and who is engaged in a specific investigation involving a designated person; or

5. An agency of government charged with the responsibility of providing medical care for the patient, upon written request by an authorized representative of the agency requesting such information;

(c) Selling, transferring, or otherwise disposing of accessories, chemicals, drugs, or devices found in illegal traffic when the pharmacist or pharmacy intern knows or should have known of their intended use in illegal activities;

(d) Engaging in conduct likely to deceive, defraud, or harm the public, demonstrating a willful or careless disregard for the health, welfare, or safety of a patient, or engaging in conduct which substantially departs from accepted standards of pharmacy practice ordinarily exercised by a pharmacist or pharmacy intern, with or without established proof of actual injury;

(e) Engaging in grossly negligent professional conduct, with or without established proof of actual injury;

(f) Selling, transferring, dispensing, ingesting, or administering a drug for which a prescription drug order is required, without having first received a prescription drug order for the drug;

(g) Willfully or knowingly failing to maintain complete and accurate records of all drugs received, dispensed, or disposed of in compliance with federal and state laws, rules, or administrative regulations;

(h) Obtaining any remuneration by fraud, misrepresentation, or deception; or

(i) Accessing or attempting to access confidential patient information for persons other than those with whom a pharmacist has a current pharmacist-patient relationship and where such information is necessary to the pharmacist to provide pharmacy care.

(3) Any licensee, permit holder, or certificate holder entering an "Alford" plea, pleading nolo contendere, or who is found guilty of a violation prescribed in subsection (1)(c) of this section shall within thirty (30) days notify the board of that plea or conviction. Failure to do so shall be grounds for suspension or revocation of the license, certificate, or permit.

(4) Any person whose license, permit, or certificate has been revoked in accordance with the provisions of this section, may petition the board for reinstatement. The petition shall be made in writing and in a form prescribed by the board. The board shall investigate all reinstatement petitions, and the board may reinstate a license, permit, or certificate upon showing that the former holder has been rehabilitated and is again able to engage in the practice of pharmacy with reasonable skill, competency and safety to the public. Reinstatement may be on the terms and conditions that the board, based on competent evidence, reasonably believes necessary to protect the health and welfare of the citizens of the Commonwealth.

(5) Upon exercising the power of revocation provided for in subsection (1) of this section, the board may reasonably prohibit any petition for reinstatement for a period up to and including five (5) years.

Section 549. KRS 317.440 is amended to read as follows:

(1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit or fraud in the practice or teaching of barbering, the barber board shall prescribe reasonable rules and regulations:

(a) Governing the location and housing of barber shops or schools;

(b) Governing the quantity and quality of equipment, supplies, materials, records and furnishings required in barber shops or schools;

(c) Governing the training and supervision of barber apprentices;

(d) Governing the qualifications of teachers of barbering;

(e) Governing the hours and courses of instruction at barber schools;

(f) Governing the examinations of applicants for barber, apprentice barber or teacher of barbering.

(2) Regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for ***health services***~~[human resources]~~ before becoming effective.

Section 550. KRS 318.134 is amended to read as follows:

(1) No person, firm, or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department through a duly-authorized inspector, employee, or agent, finds that the plumbing was not constructed, installed, or altered in accordance with such permit and the Kentucky State Plumbing Code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location, and construction of the water supply system to be used. If an on-site sewage disposal system that does not have a surface discharge is proposed, a valid on-site sewage disposal permit issued by the Cabinet for ***Health Services***~~[Human Resources]~~ or its designated agent shall accompany the application.

(3) The department shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The department shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation, or alteration of plumbing in public buildings.

Section 551. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the department, no person shall construct, install, or extensively alter any plumbing, sewerage or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, or some other type of on-site sewage disposal system that does not have a surface discharge, the application for construction, installation, or alteration of such system shall be submitted to the Cabinet for ***Health Services***~~[Human Resources]~~ or its designated agent. All other plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation, or alteration shall be done in accordance with the approved plans.

Section 552. KRS 333.020 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise, the following terms shall have the meanings set forth below:

(1) "Person" means any individual, firm, partnership, association, corporation, municipality, political subdivision, or any other entity whether organized for profit or not***;***~~[.]~~

(2) "Cabinet" means the ~~["]~~Cabinet for ***Health Services;***~~[Human Resources."]~~

(3) "Medical laboratory" means any institution, building, place or any other facility in which operations and procedures for the microbiological, serological, chemical, hematological, immunohematological, biophysical, cytological, pathological or other methods of examination of tissues including blood, secretions and excretions of the human body are performed to obtain information in diagnosing, preventing or treating disease, or in which the results of any examination, determination or test are used as a basis for health advice. These activities include the diagnosis and identification of disease by the examination of tissues removed by surgery and also the determination of cause of death by the examination of tissues removed at autopsy. The term "clinical laboratory" shall be deemed synonymous with the term "medical laboratory," and includes laboratories operated and maintained exclusively for teaching purposes***;***~~[.]~~

(4) "Medical laboratory director" means the individual who is responsible for the administrative, scientific and technical operation of the medical laboratory, including supervision of laboratory procedures, reporting of findings, and active participation to such extent as may be necessary to assure compliance with the law. He shall be responsible for the proper performance of all work in the laboratory and shall direct, supervise and be responsible for the work of subordinates***;***~~[.]~~

(5) "Medical laboratory supervisor" means an individual who, under the general supervision of a medical laboratory director, supervises technical personnel, performs tests requiring special scientific skills, experience and educational background, and, in the absence of the director, is held responsible for the proper performance of all medical laboratory procedures and the reporting of results***;***~~[.]~~

(6) "Medical laboratory technologist" means an individual who performs tests which require the exercise of independent judgment and responsibility, with minimal supervision by the director or supervisor, in only those specialties or subspecialties in which they are qualified by education, training, and experience***;***~~[.]~~

(7) "Medical laboratory technician" means any individual other than the medical laboratory director, supervisor,

technologist, or trainee who functions under the supervision of a medical laboratory director, supervisor, or technologist and performs only those medical laboratory procedures which require limited skill, responsibility, and a minimal exercise of independent judgment***;***[~~.~~]

(8) "Medical laboratory trainee" means any individual in a medical laboratory who is seeking training and experience which, combined with the appropriate educational background, will qualify that person for employment as a "medical technologist" or "medical laboratory technician." Trainees may perform procedures under the direct supervision of the laboratory director, supervisor, or medical technologist***;***[~~.~~]

(9) "Medical laboratory personnel" includes the medical laboratory director, supervisor, technologist or technician, but does not include medical laboratory assistants, trainees, or other individuals employed by a medical laboratory to perform clerical or other administrative responsibilities***;***[~~.~~]

(10) "Medical laboratory evaluation program" means a program for evaluating the proficiency of medical laboratories by the cabinet***; and***[~~.~~]

(11) "Medical laboratory advisory committee" shall mean a group of consultants appointed by the secretary for ***health services***[~~human resources~~] or his designee to advise the cabinet on matters relating to the regulation of medical laboratories.

Section 553. KRS 333.040 is amended to read as follows:

This chapter applies to all medical laboratories within the State of Kentucky, except:

(1) Medical laboratories operated by the United States government;

(2) Medical laboratories operated by a licensed physician, or a group of licensed physicians, solely and exclusively in connection with the diagnosis and treatment of their own patients; if any referred work is received or performed by such medical laboratories, all provisions of this chapter shall apply;

(3) Medical laboratories operated by hospitals licensed by the secretary for ***health services***[~~human resources~~];

(4) Medical laboratories operated and maintained exclusively for research purposes, involving no patient or public health service whatsoever.

Section 554. KRS 333.220 is amended to read as follows:

The secretary for ***health services***[~~human resources~~] shall appoint an advisory committee to advise the cabinet in the fulfillment of its responsibilities under this chapter. The committee shall be composed of nine (9) appointed members. The secretary for ***health services***[~~human resources~~] or his designated representative shall be an ex officio member. All appointed members shall serve for a term of four (4) years or until their successors are appointed and qualified. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky Hospital Association. One (1) member shall be appointed from a list of three (3) names submitted by the Kentucky State Society of American Medical Technologists. Two (2) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky State Society of Medical Technologists. Five (5) members shall be appointed from a list of three (3) names for each position submitted by the Kentucky Medical Association, provided, however, that at least three (3) of such positions shall be filled only by pathologists who are directors of medical laboratories, and who have been recommended to the Kentucky Medical Association by the Kentucky Society of Pathologists.

Section 555. KRS 334.140 is amended to read as follows:

(1) There is[~~ hereby~~] created the "Kentucky Licensing Board for Specialists in Hearing Instruments".

(2) The board shall be composed of nine (9) members who shall be appointed by the Governor. Terms of office shall be at the Governor's discretion, not to exceed four years. All terms shall expire on July 31 of the designated year. Each member shall serve for the term of his appointment and until his successor has been appointed and qualified. If a vacancy occurs on the board, a new member shall be appointed to serve out the unexpired term. No member shall serve consecutive terms on the board. Upon recommendation of the board, the Governor may remove any member of the board for excessive absenteeism, neglect of duty, or malfeasance in office.

(3) Five (5) members shall be specialists in hearing instruments licensed under KRS 334.080. The appointees shall have at least five (5) years' relevant experience. The Governor shall consider nominations from the Hearing Aid Association of Kentucky. No two (2) members from the same place of business may serve on the board at the same time.

(4) One (1) member shall be a physician licensed to practice medicine in Kentucky and specializing in otology or otolaryngology.

(5) One (1) member shall be an audiologist holding at least a master's degree from a recognized college or university and having the certification of clinical competence in audiology from the American Speech-Language-Hearing Association and licensed under KRS Chapter 334A.

(6) One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(7) One (1) member shall be the secretary of the Cabinet for ***Health Services***[~~Human Resources~~] or his designee.

(8) Five (5) members of the nine (9) members of the board, when properly convened, may conduct the business of the board.

Section 556. KRS 336.090 is amended to read as follows:

(1) The department shall be furnished with a copy of all the laws and rulings of the secretary for ***health services***[~~human resources~~] affecting sanitary conditions in places of employment, not covered by the labor laws of the state, and shall report in writing to the state, county, or city health authorities any violations coming under the observation of its inspectors while visiting places of employment in the regular performance of their duty.

(2) The inspectors shall be furnished with a copy of all the laws and rulings of the Department of Housing, Buildings and Construction relating to fire hazards in places of employment, and shall report in writing to the state, county, or city authorities any violations coming under their observation while visiting places of employment in the regular performance of their duty.

Section 557. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" include any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;

2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;

5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;

6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;

7. Any individual employed as a babysitter in employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the commissioner of the Department of Personnel shall have the authority to prescribe by administrative regulation those emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year;

or

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for ***Families and Children***~~[Human Resources]~~ under KRS 199.640 to 199.670.

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but, if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly-owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

Section 558. KRS 337.285 is amended to read as follows:

No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed. This provision does not apply to employees of retail stores engaged in work connected with selling, purchasing and distributing merchandise, wares, goods, articles or commodities or to employees of restaurant, hotel and motel operations, to employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(10) and 213(b)(17) of Title 29, U.S.C. or to employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for ***Health***

Services[~~Human Resources~~] under KRS 199.640 to 199.670.

Section 559. KRS 338.041 is amended to read as follows:

(1) There is hereby created in the Department of Workplace Standards a Program for Occupational Safety and Health. This program shall consist of a Division of Occupational Safety and Health Compliance and a Division of Education and Training for Occupational Safety and Health. This program shall administer all matters pertaining to occupational safety and occupational health and shall be under the supervision of an occupational safety and health coordinator. The secretary of the Labor Cabinet shall appoint the occupational safety and health coordinator.

(2) The Department of Workplace Standards may require the assistance of other state agencies and may enter into agreements with other state agencies and political subdivisions of the Commonwealth for the administration of this chapter.

(3) The Department of Workplace Standards may enter into an agreement with the Cabinet for ***Health Services***[~~Human Resources~~] and other appropriate departments or agencies to conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems in the administration of this chapter.

Section 560. KRS 339.230 is amended to read as follows:

A minor who has passed his fourteenth birthday but is under eighteen (18) years of age may be employed, permitted or suffered to work in, about or in connection with any gainful occupation, except:

(1) If he is under sixteen (16) years of age, he may not be employed during regular school hours, unless:

(a) The school authorities have made arrangements for him to attend school at other than the regular hours, in which event he may be employed subject to regulations of the commissioner of workplace standards during such of the regular school hours as he is not required to be in attendance under the arrangement; or,

(b) He has graduated from high school.

(2) A minor who has passed his fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted or suffered to work:

(a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety or welfare of such minor;

(b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he make them less restrictive;

(c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive; and

(d) In, about or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage Control Board (except he may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.

(3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety or welfare of minors. He may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the U.S. Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall consist of a representative from the Cabinet for ***Health Services***[~~Human Resources~~], the Department of Education, the Kentucky Commission on Human Rights and the Department of Personnel. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

Section 561. KRS 340.010 is amended to read as follows:

As used in KRS 340.020 to 340.070, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for ***Workforce Development***[~~Human Resources~~];

(2) "Employment" means any service rendered, or to be rendered, or any engagement undertaken for remuneration;

(3) "Employment agency" means any person or organization that offers or agrees to furnish or assist in furnishing employment, engagements for help, information, or service concerning or purporting to effect employment, except that it does not include bona fide educational, religious, charitable, fraternal, or benevolent organizations in which no charge is made for service rendered other than the ordinary membership dues and assessments for their members, bona fide labor organizations undertaking to secure employment for their members, bona fide employers' organizations undertaking to secure labor for their own members without cost to the applicant employees, teachers' agencies finding positions for schoolteachers only, nurses' registries or agencies operated in conjunction with a bona fide educational institution, temporary help agencies;

(4) "Hire" means any compensation, service, or benefit exacted, or accepted, or any gratuity received in connection with any act of any employment agency or in connection with, any transaction concerning any employment agency; and

(5) "Secretary" means the secretary of the Cabinet for ***Workforce Development***[~~Human Resources~~].

Section 562. KRS 340.070 is amended to read as follows:

(1) The cabinet shall have exclusive jurisdiction over the administration and enforcement of KRS 340.010 to 340.070.

(2) The cabinet shall inspect the offices and places of business of employment agencies and shall have access to all files and records of employment agencies.

(3) The secretary for ***workforce development***[~~human resources~~] may promulgate any administrative regulations necessary to effectuate the purposes of this chapter.

(4) Any administrative hearing conducted pursuant to KRS 340.010 to 340.070 shall be conducted in accordance with KRS Chapter 13B.

Section 563. KRS 341.067 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Hospital" means an institution which has been licensed, certified or approved by the secretary for ***health services***[~~human resources~~] as a hospital***;***[~~.~~]

(2) "Institution of higher education" means an educational institution which:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution***;***[~~.~~]

(3) Notwithstanding any of the foregoing provisions of this section, all recognized colleges and universities in this state are institutions of higher education for purposes of this chapter***; and***[~~.~~]

(4) (a) "Educational institution," including an institution of higher education as defined in subsection (2) of this section, means:

1. A school in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);

2. It is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school; and

3. The courses of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(b) In any particular case, the question of whether or not an institution is an educational institution within the meaning of the criteria described above will depend on what that particular institution actually does.

Section 564. KRS 341.080 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) Except in so far as the Cabinet for Workforce Development by regulation prescribes the equivalent thereof to meet particular conditions:

(a) "Calendar year" means a year beginning on January 1; and

(b) "Calendar quarter" means three (3) consecutive months beginning on January 1, April 1, July 1, or October 1***;***~~[.]~~

(2) "Week" means such period of seven (7) consecutive calendar days as the Cabinet for ***Workforce Development***~~[Human Resources]~~ by regulation prescribes***; and***~~[.]~~

(3) ~~[The term]~~"Week of unemployment" means any period of seven (7) consecutive days, as prescribed by Cabinet for Workforce Development regulations, during which a worker performed less than full-time work and earned less than an amount equal to one and one-fourth (1-1/4) times the benefit rate determined for him in accordance with the provisions of subsection (2) of KRS 341.380.

Section 565. KRS 342.315 is amended to read as follows:

(1) The commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.

(2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. The clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by arbitrators and administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When arbitrators or administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

(3) The commissioner, an arbitrator, or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.

(4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

(5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.

(6) Not less often than annually the designee of the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically-recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

Section 566. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the Cabinet for ***Health Services***~~[Human Resources]~~.

Section 567. KRS 347.040 is amended to read as follows:

(1) The secretaries of the Cabinet for ***Health Services***~~[Human Resources]~~ and the Education, Arts, and Humanities Cabinet and the chief state school officer shall jointly develop and implement a statewide plan, with adequate opportunity for

public comment, to serve all persons with developmental disabilities not otherwise entitled to and receiving the same services under another state or federal act, which will include provisions for:

(a) Identification and prompt and adequate interdisciplinary assessment;

(b) Case management services; and

(c) Services and residential alternatives as defined by this chapter in the least restrictive, individually appropriate environment.

(2) The first plan and annual updates shall be presented to the Legislative Research Commission which shall refer it to an appropriate committee for review and comment.

(3) The plan shall include:

(a) The number of institution residents on waiting lists for placement in the community;

(b) The number of persons outside institutions on waiting lists for placement in the institution;

(c) The number of persons for whom no placement is made nor services provided because of a lack of community resources;

(d) The number, type, nature, and cost of services necessary for placement to occur;

(e) The status of compliance with the plan;

(f) The cabinets' specific efforts to increase residential and institutional services and documentation of the success of these efforts; and

(g) The specific plans for new efforts to enhance the opportunities for persons with developmental disabilities to move into less restrictive environments.

(4) The state health plan shall be developed consistently with the plan required under this chapter.

Section 568. KRS 347.050 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~, the Education, Arts, and Humanities Cabinet, and the Department of Education shall promulgate and implement rules and regulations for the:

(1) Enhancement and protection of the rights of persons receiving services and active treatment in both the public and private sectors under this chapter, including, but not limited to, the right to:

(a) Provision of services in the least restrictive, individually appropriate environment;

(b) An individualized service plan;

(c) Privacy and humane service;

(d) Confidentiality, access, referral and transfer of records;

(e) Monitored active treatment in the least restrictive, individually appropriate environment;

(f) Notice of rights under this chapter; and

(g) A fair, timely and impartial grievance procedure to resolve grievances concerning identification and evaluation, services and active treatment, residential alternatives and the protection of the rights of persons with developmental disabilities under this chapter.

(2) Implementation of this chapter providing for the orderly development of services and coordination among organizational units, administrative bodies and service providers to assure effective provision of services in both the public and private sectors to persons with developmental disabilities.

Section 569. KRS 347.060 is amended to read as follows:

The Cabinet for ***Health Services***~~[Human Resources]~~, the Education, Arts, and Humanities Cabinet and the Department of Education may assess reasonable charges for services rendered under this chapter, based upon a sliding fee scale which takes into account the extensive services required as a result of, and the extraordinary expenses related to, a developmental disability; provided that no charges for services rendered under this chapter may be assessed for compliance with requirements and responsibilities mandated under any state or federal act as provided under subsection (5) of KRS 347.010.

Section 570. KRS 363.840 is amended to read as follows:

Nothing contained in KRS 363.510 to 363.850 shall be construed as amending, repealing or superseding any provision of KRS 217.005 to 217.215 (the Kentucky Food, Drug and Cosmetic Act) or the regulations adopted thereunder by the secretary for ***health services***~~[human resources]~~.

Section 571. KRS 365.425 is amended to read as follows:

No application for a going out of business sale shall be accepted by the county clerk if the sale involves foods or drugs damaged by fire or other casualty unless the approval of the Cabinet for ***Health Services***~~[Human Resources]~~ has first been obtained.

Section 572. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A telephone call to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;

2. That the recipient will receive a prize or gift if the recipient calls the merchant; or

3. That if the recipient buys one (1) or more items from the merchant, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation" does not mean:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call made by any of the following:

1. A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;

2. A broker-dealer, agent, or investment adviser properly registered under the provisions of KRS Chapter 292;

3. An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;

4. An employment agency that has obtained a current permit from the Cabinet for ***Workforce Development***~~[Human Resources]~~ under the provisions of KRS Chapter 340;

5. A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;

6. A merchant or the merchant's affiliate or authorized agent, when the merchant is regulated by the Public Service Commission;

7. A merchant soliciting the sale of food costing less than one hundred dollars ($100) to each address;

8. A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale; includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;

9. The solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

10. Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;

11. A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986;

12. A merchant or the merchant's affiliate or authorized agent when the merchant is subject to the control or licensure regulations of the Federal Communications Commission;

13. A book, video, or record club or contractual plan or arrangement in which the seller provides the consumer with a form which the consumer may use to instruct the seller not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of the latter plan include continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;

14. A merchant who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation; or

15. Any telephone marketing service company which provides telemarketing sales services under contract to merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under KRS 367.46951 to 367.46999, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of KRS 367.46951 to 367.46999, if applicable;

(d) A telephone call made by a merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or

(e) A telephone call made by a merchant or the merchant's affiliate or authorized agent, where the merchant is a publicly traded corporation;

Except for subparagraph (2)(c)15. of this section, the exemptions provided under subsection (2) of this section shall apply only to a merchant or the merchant's affiliate or authorized agent engaging in a telephone solicitation on the merchant's behalf;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator; and

(11) "Publicly-traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer.

Section 573. KRS 387.540 is amended to read as follows:

(1) Prior to a hearing on a petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator, an interdisciplinary evaluation report shall be filed with the court. The report may be filed as a single and joint report of the interdisciplinary evaluation team, or it may otherwise be constituted by the separate reports filed by each individual of the team. If the court and all parties to the proceeding and their attorneys agree to the admissibility of the report or reports, the report or reports shall be admitted into evidence and shall be considered by the jury. The report shall be compiled by at least three (3) individuals, including a physician, a psychologist licensed or certified under the provisions of KRS Chapter 319, and a person licensed or certified as a social worker or an employee of the Cabinet for ***Families and Children***[~~Human Resources~~] who meets the qualifications of KRS 335.080(1)(a), (b), and (c) or 335.090(1)(a), (b), and (c). The social worker shall, when possible, be chosen from among employees of the Cabinet for ***Families and Children***[~~Human Resources~~] residing or working in the area, and there shall be no additional compensation for their service on the interdisciplinary evaluation team.

(2) At least one (1) person participating in the compilation of the report shall have knowledge of the particular disability which the respondent is alleged to have or knowledge of the skills required of the respondent to care for himself and his estate.

(3) If the respondent is alleged to be partially disabled or disabled due to mental illness, at least one (1) person participating in the compilation of the interdisciplinary evaluation report shall be a qualified mental health professional as defined in KRS 202A.011(12). If the respondent is alleged to be partially disabled or disabled due to mental retardation, at least one (1) person participating in the compilation of the evaluation report shall be a qualified mental retardation professional as defined in KRS 202B.010(12).

(4) The interdisciplinary evaluation report shall contain:

(a) A description of the nature and extent of the respondent's disabilities, if any;

(b) Current evaluations of the respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations not more than three (3) months old, except that evaluations of the respondent's intellectual condition may be based on individual intelligence test scores not more than one (1) year old;

(c) An opinion as to whether guardianship or conservatorship is needed, the type of guardianship or conservatorship needed, if any, and the reasons therefor;

(d) An opinion as to the length of time guardianship or conservatorship will be needed by the respondent, if at all, and the reasons therefor;

(e) If limited guardianship or conservatorship is recommended, a further recommendation as to the scope of the guardianship or conservatorship, specifying particularly the rights to be limited and the corresponding powers and duties of the limited guardian or limited conservator;

(f) A description of the social, educational, medical, and rehabilitative services currently being utilized by the respondent, if any;

(g) A determination whether alternatives to guardianship or conservatorship are available;

(h) A recommendation as to the most appropriate treatment or rehabilitation plan and living arrangement for the respondent and the reasons therefor;

(i) A listing of all medications the respondent is receiving, the dosage, and a description of the impact of the medication upon the respondent's mental and physical condition and behavior;

(j) An opinion whether attending a hearing on a petition filed under KRS 387.530 would subject the respondent to serious risk of harm;

(k) The names and addresses of all individuals who examined or interviewed the respondent or otherwise participated in the evaluation; and

(l) Any dissenting opinions or other comments by the evaluators.

(5) The evaluation report may be compiled by a community mental health-mental retardation center, a licensed facility for mentally ill or developmentally disabled persons, if the respondent is a resident of such facility, or a similar agency.

(6) In all cases where the respondent is a resident of a licensed facility for mentally ill or developmentally disabled persons and the petition is filed by an employee of that facility, the petition shall be accompanied by an interdisciplinary evaluation report prepared by the facility.

(7) Except as provided in subsection (6) of this section, the court shall order appropriate evaluations to be performed by qualified persons or a qualified agency. The report shall be prepared and filed with the court and copies mailed to the attorneys for both parties at least ten (10) days prior to the hearing. All items specified in subsection (4) of this section shall be included in the report.

(8) If the person evaluated is a poor person as defined in KRS 453.190, the examiners shall be paid by the county in which the petition is filed upon an order of allowance entered by the court. Payment shall be in an amount which is reasonable

as determined by the court, except no payment shall be required of the county for an evaluation performed by a salaried employee of a state agency for an evaluation performed within the course of his employment. Additionally, no payment shall be required of the county for an evaluation performed by a salaried employee of a community mental health-mental retardation center or private facility or agency where the costs incurred by the center, facility, or agency are reimbursable through third-party payors. Affidavits or other competent evidence shall be admissible to prove the services rendered but not to prove their value.

(9) The respondent may file a response to the evaluation report no later than five (5) days prior to the hearing.

(10) The respondent may secure an independent evaluation. If the respondent is unable to pay for the evaluation, compensation for the independent evaluation may be paid by the county in an amount which is reasonable as determined by the court.

Section 574. KRS 387.600 is amended to read as follows:

(1) The court may appoint as limited guardian, guardian, limited conservator, or conservator any suitable person or any entity, public or private, capable of conducting an active guardianship or conservatorship program. The court shall not ordinarily or customarily appoint the Cabinet for ***Families and Children***~~[Human Resources]~~ or any other person or entity, public or private, that is directly providing services to the respondent unless no other suitable person or entity is available and willing to be appointed. Appointment of the Cabinet for ***Families and Children***~~[Human Resources]~~ shall be consistent with the provisions of KRS 210.290.

(2) Prior to the appointment, the court shall make a reasonable effort to question the respondent concerning his preference regarding the person or entity to be appointed limited guardian, guardian, limited conservator, or conservator, and any preference indicated shall be given due consideration. If the respondent has designated another as his attorney in fact or agent by executing a power of attorney in writing, that designation shall be treated as an indication of the respondent's preference as to the person or entity to be appointed as his limited guardian, guardian, limited conservator, or conservator, and that preference shall be given due consideration. The court shall appoint the person or entity best qualified and willing to serve.

Section 575. KRS 387.610 is amended to read as follows:

Prior to the expiration of a term of guardianship or conservatorship, the limited guardian, guardian, limited conservator, or conservator may petition, pursuant to KRS 387.620, for a renewal of his appointment for a period not to exceed five (5) years. The petition shall be accompanied by verified affidavits of a physician, or a psychologist licensed or certified under the provisions of KRS Chapter 319, or a person licensed or certified as a social worker or an employee of the Cabinet for ***Families and Children***~~[Human Resources]~~ who meets the qualifications of KRS 335.080(1)(a), (b) and (c) or 335.090(1)(a), (b) and (c) supporting the need for the continuation of the guardianship or conservatorship.

Section 576. KRS 402.320 is amended to read as follows:

Every physician examining applicants for a marriage license may obtain an appropriate blood specimen from each applicant and forward same to the Division of Laboratory Services, Cabinet for ***Health Services***~~[Human Resources]~~, or to a laboratory approved by the cabinet, to ascertain the existence or nonexistence of sickle cell trait or sickle cell disease, or any other genetically-transmitted disease which affects hemoglobin. In the event the laboratory tests indicate that both applicants are carriers of a trait or disease, the physician may provide genetic counseling or refer the applicants to the cabinet or to an agency approved by the cabinet for such counseling.

Section 577. KRS 402.340 is amended to read as follows:

The secretary for ***health services***~~[human resources]~~ shall adopt rules and regulations for the proper administration and enforcement of KRS 402.310 to 402.340.

Section 578. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and.

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their adjusted gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(b) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) In any case administered by the Cabinet for ***Families and Children***[~~Human Resources~~], if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for ***Families and Children***[~~Human Resources~~] may, upon application, enroll the child.

Section 579. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of

the school year during which the child reaches the age of nineteen (19) years. Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for ***Families and Children***[~~Human Resources~~] or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area; and

(f) The Attorney General or his designee, who shall be an attorney from his office.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

Section 580. KRS 403.7505 is amended to read as follows:

(1) The Cabinet for ***Health Services***[~~Human Resources~~] shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.

(2) The standards created by the cabinet shall be based on the following principles:

(a) Domestic violence is a pattern of coercive control which includes physical, sexual, psychological, and environmental abuse, and is considered to be criminal conduct;

(b) The primary goal of treatment programs for domestic violence offenders shall be the cessation of violence which will provide for the safety of victims and their children; and

(c) Domestic violence offenders are responsible and shall be held accountable for the violence which they choose to perpetrate.

(3) The standards created by the cabinet shall address the following:

(a) Qualifications of providers of court-mandated domestic violence offender treatment services which shall include appropriate requirements for degree, experience, training, and continuing education;

(b) Procedures for application by providers to receive certification which shall include methods of appeal if certification is denied, and sanctions for noncompliance with the standards which may include revocation of certification;

(c) Admittance and discharge criteria for domestic violence offenders to enter court-mandated treatment services provided pursuant to this section;

(d) Written protocols for referral by a court to certified providers and for progress reports to be made to the court by providers;

(e) Contracts for domestic violence offenders to sign prior to entering court-ordered treatment services provided pursuant to this section. The contract shall specify that certified providers may contact the victims of the offender if the victim chooses to be contacted. The contract shall authorize the provider to release information regarding the offender's progress in treatment to the court, victims, probation and parole officers, and other individuals authorized by the court to receive the information;

(f) Written procedures in compliance with KRS 202A.400, 209.030, and 620.030;

(g) Payment protocols which require the offender to pay the actual cost for any court-mandated evaluation or treatment pursuant to this section, subject to the offender's ability to pay; and

(h) Other provisions which shall further the availability and quality of court-mandated domestic violence offender services.

(4) The cabinet shall:

(a) Maintain a list of providers certified pursuant to this section and regularly submit the list to the Administrative Office of the Courts; and

(b) Collect data from certified providers, which shall include the number of domestic violence offenders served by the certified providers, to be compiled annually and submitted to the Governor, the Chief Justice of the Kentucky Supreme Court, and the Legislative Research Commission.

Section 581. KRS 403.783 is amended to read as follows:

(1) For the purposes of KRS 403.783 to 403.785, "law enforcement agency" means any agency of state, county, city, or metropolitan government, or a combination of these, responsible for employing and directing the action of peace officers, including sheriffs and their deputies, sworn police officers, sworn enforcement officers of the Kentucky State Police or other duly-authorized state law enforcement agency whose officers are persons with authority to make arrests under the provisions of KRS 403.760(2).

(2) The secretary of the Justice Cabinet, or a designee, in consultation with legal, victims services, victim advocacy, and mental professionals with an expertise in domestic violence, shall develop a written model policy and procedures manual related to domestic violence for law enforcement agencies. The model policy shall set forth the core elements required to be addressed in each law enforcement agency's policy. The model policy shall also recommend procedures which may be included in local policies. The model policy shall be developed to comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for ***Families and Children***~~[Human Resources]~~, Department for Social Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records. The model policy shall be completed no later than four (4) months after July 15, 1996. The cabinet shall distribute a copy of the model policy to each law enforcement agency in the Commonwealth.

(3) No later than January 1 after July 15, 1996 and July 31 of every even numbered year which follows, every law enforcement agency shall submit a copy of the agency's written domestic violence policy to the Justice Cabinet.

(4) If a law enforcement agency fails to submit a copy of the agency's written domestic violence policy in a timely manner, the secretary shall promptly notify the law enforcement agency in writing of the requirements contained in this section.

(5) If the secretary determines that a law enforcement agency has submitted a domestic violence policy which is inadequate, the secretary shall reject the policy and provide assistance to the agency in developing an adequate domestic violence policy.

Section 582. KRS 403.785 is amended to read as follows:

(1) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for ***Families and Children***~~[Human Resources]~~, Department for Social Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.

(2) When a law enforcement officer has reason to suspect that a family member, member of an unmarried couple, or household member has been the victim of domestic violence and abuse, the officer shall use all reasonable means to prevent further abuse, including but not limited to:

(a) Remaining at the location of the domestic violence and abuse so long as the officer reasonably suspects there is danger to the physical safety of individuals present without the presence of a law enforcement officer;

(b) Assisting the victim of domestic violence and abuse in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and

(c) Advising the victim immediately of the rights available to them, including the provisions of KRS 403.715 to 403.785.

Section 583. KRS 405.465 is amended to read as follows:

(1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the Cabinet for ***Families and Children***~~[Human Resources]~~ or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.

(2) All child support orders and medical support insurance orders being established, modified, or enforced by the Cabinet for ***Families and Children***~~[Human Resources]~~, or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the Cabinet for ***Families and Children***~~[Human Resources]~~ or the domestic relations clerk of the court or other officer designated by the court to receive the payment, that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5) The employer shall notify the cabinet when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.

(6) Any assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(7) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

Section 584. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for ***Families and Children***~~[Human Resources]~~, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a parent is required to pay court ordered or administratively determined child support, medical support, maintenance, and medical support insurance, wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any.

(3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer.

(4) Advance notice shall be sent to the obligor prior to the issuance of the order to withhold earnings. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the obligor of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the obligor with the information contained in any order served on the employer with respect to the withholding.

(5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or Family Court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.

(8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively-ordered or judicially-ordered medical support obligation.

(9) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(10) Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(11) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(12) The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(13) Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 585. KRS 405.490 is amended to read as follows:

(1) Any person, including the obligor, who has been served with an order to withhold and deliver the obligor's property shall answer the order within twenty (20) days.

(2) The person in possession of any obligor's property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or the obligor may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of obligor's property shall have no liability or further responsibility after fulfilling the duties under this section.

(4) The obligor may dispute the amount of delinquent support by requesting a dispute hearing with twenty (20) days.

(5) If the obligor does not request a hearing, acknowledgment of the obligation is presumed and the secretary may apply the withheld property to the delinquent child support obligation.

(6) If a hearing is requested, when property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending determination of the obligor's liability by a hearing officer, pursuant to KRS 405.450.

(7) Upon a decision adverse to the Cabinet for ***Families and Children***[~~Human Resources~~] by a hearing officer, of the Circuit Court on appeal, the cabinet shall return the property together with interest at the legal rate for judgments.

Section 586. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for ***Families and Children***[~~Human Resources~~] or its designee upon the request of complainant authorized by this section.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant[~~ herein~~] authorized ***by this section***. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical support shall be brought by the county attorney or by the Cabinet for ***Families and Children***[~~Human Resources~~] or its designee.

(4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a rebuttable presumption of paternity.

(5) Upon a showing of service of process on the defendant and if the defendant has made no pleading to the court or has not moved to enter evidence pursuant to KRS 406.091, the court shall order paternity to be established by default.

Section 587. KRS 407.190 is amended to read as follows:

If this state is acting as an initiating state, the county attorney, upon the request of the court or an appropriate welfare official or state agency, shall represent the plaintiff in any proceeding under this chapter. If the county attorney neglects or refuses to represent the plaintiff, the secretary for ***families and children***[~~human resources~~] or his authorized representative may employ private counsel to represent the obligee.

Section 588. KRS 407.240 is amended to read as follows:

(1) The Cabinet for ***Families and Children***[~~Human Resources~~] is[~~ hereby~~] designated as the state information agency under this chapter, and it shall be its duty:

(a) To compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law. Upon the adjournment of each session of the legislature the agency shall distribute copies of any amendments to the chapter and a statement of their effective date to all other state information agencies;

(b) To maintain a register of such lists received from other states and to transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this chapter;

(c) To forward to the court in this state which has jurisdiction over the obligor or his property, petitions, certificates and copies of the act it received from courts or information agencies of other states.

(2) If the state information agency does not know the location of the obligor or his property in the state and no state location service is available, it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended.

(3) After the deposit of three (3) copies of the complaint and certificate and one (1) copy of the act of the initiating court with the clerk of the appropriate court, if the state information agency knows or believes that the county attorney is not prosecuting the case diligently, and a reasonable period of time since the deposit of the complaint has lapsed, it shall send an inquiry to the county attorney to determine why the case is not prosecuted diligently. If the county attorney fails to respond to the inquiry, fails to give sufficient reason why he has not prosecuted the case diligently or refuses to proceed in prosecution of the case, the secretary for ***families and children***[~~human resources~~] or his authorized representative may employ private counsel to represent the obligee.

Section 589. KRS 407.250 is amended to read as follows:

(1) When the court of this state, acting as a responding court, receives from the initiating court the aforesaid copies, it shall docket the cause, notify the county attorney, set a time and place for a hearing, and take such action as is necessary in accordance with the laws of this state to obtain jurisdiction.

(2) The county attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court clerk to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

(3) If the county attorney neglects or refuses to represent the obligee, the secretary for ***families and children***[~~human resources~~] or his authorized representative may employ private counsel to represent the obligee.

Section 590. KRS 407.440 is amended to read as follows:

If the secretary for ***families and children***[~~human resources~~] or his authorized representative is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or if the support order was issued in another state, cause the appeal to be taken in the other state. In either case, expenses of appeal may be paid on his order from funds appropriated for his office.

Section 591. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent***;***[~~.~~]

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state***;***[~~.~~]

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support***;***[~~.~~]

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period***;***[~~.~~]

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state***;***[~~.~~]

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by KRS 403.212, to withhold support from the income of the obligor***;***[~~.~~]

(7) "Initiating state" means a state in which a proceeding under this chapter or a law substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state***;***[~~.~~]

(8) "Initiating tribunal" means the authorized tribunal in an initiating state***;***[~~.~~]

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage***;***[~~.~~]

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage***;***[~~.~~]

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law***;***[~~.~~]

(12) "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(c) An individual seeking a judgment determining parentage of the individual's child***;***[~~.~~]

(13) "Obligor" means an individual, or the estate of a decedent:

(a) Who or is alleged to owe a duty of support;

(b) Who is alleged but has not been adjudicated to be a parent of a child; or

(c) Who is liable under a support order***;***[~~.~~]

(14) "Register" means to file a support order or judgment determining parentage with the Cabinet for ***Families and Children;***[~~Human Resources.~~]

(15) "Registering tribunal" means a tribunal in which a support order is registered***;***[~~.~~]

(16) "Responding state" means a state to which a proceeding is forwarded under this chapter or a law substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act***;***[~~.~~]

(17) "Responding tribunal" means the authorized tribunal in a responding state***;***[~~.~~]

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor***;***[~~.~~]

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter***;***[~~.~~]

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(a) Enforcement of support orders or laws relating to the duty of support;

(b) Establishment or modification of child support;

(c) Determination of parentage; or

(d) To locate obligors or their assets***;***[~~.~~]

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief***; and***[~~.~~]

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 592. KRS 407.5102 is amended to read as follows:

The Circuit Court, District Court, and family courts shall be the state tribunals for judicial proceedings, and the Cabinet for ***Families and Children***[~~Human Resources~~] and the Division of Child Support Enforcement (DCSE) shall be the state tribunals for administrative proceedings.

Section 593. KRS 407.5201 is amended to read as follows:

In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with summons, or notice within this state;

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive pleading having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) The individual asserted parentage in the putative father registry maintained in this state by the Cabinet for ***Families and Children***[~~Human Resources~~]; or

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Section 594. KRS 407.5308 is amended to read as follows:

If the Cabinet for ***Families and Children***[~~Human Resources~~] determines that a contracting official is neglecting or refusing to provide services to an individual, the Cabinet for ***Families and Children***[~~Human Resources~~] may order that official to perform his duties under KRS 407.5101 to 407.5902 or may provide those services directly to the individual.

Section 595. KRS 407.5310 is amended to read as follows:

(1) The Cabinet for ***Families and Children***~~[Human Resources]~~ is the state information agency under KRS 407.5101 to 407.5902.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under KRS 407.5101 to 407.5902 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under KRS 407.5101 to 407.5902 received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Section 596. KRS 407.5602 is amended to read as follows:

(1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the Cabinet for ***Families and Children***~~[Human Resources]~~ or the appropriate tribunal within this state wherein the obligor resides, works, or owns property:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two (2) copies, including one (1) certified copy, of all orders to be registered, including any modification of an order;

(c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known;

1. The obligor's address and Social Security number;
2. The name and address of the obligor's employer and any other source of income of the obligor; and
3. A description and the location of property of the obligor in this state not exempt from execution; and

(e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

Section 597. KRS 411.095 is amended to read as follows:

(1) An adult or emancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, in violation of the provisions of KRS Chapters 512 and 514, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250).

(2) The custodial parents or legal guardian having custody of an unemancipated minor who damages, destroys, or takes possession of any goods, wares, or merchandise, stored, displayed, or offered for sale by any wholesale or retail store or other mercantile establishment, or who alters the price indicia of the merchandise, which would be a public offense, without having paid the purchase price thereof, shall be civilly liable to the owner for actual damages, if any, and for a penalty to the owner in the amount of the retail value of the merchandise not to exceed five hundred dollars ($500), plus an additional penalty to the owner of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250). For purposes of this subsection, liability shall not be imposed upon any governmental entity, private agency, or foster parents assigned responsibility for the minor child pursuant to a court order or action of the Cabinet for ***Families and Children***~~[Human Resources]~~, or any agency thereunder.

(3) For the purposes of this section, "owner" shall include any agent or employee of the owner.

(4) A conviction of an offense under KRS Chapters 512 or 514 is not a condition precedent to the maintenance of a civil action under this section.

(5) Civil liability under this section shall not be limited by any other law that limits liability of parents of minor children.

(6) An action for recovery of damages, or penalty, or both, and costs under this section may be brought in any court of competent jurisdiction, including the small claims division of District Court, if the total amount sought does not exceed the jurisdictional limit of the respective court.

(7) The fact that an owner has a right to bring an action against any individual as provided in this section shall not limit the right of the owner to demand, in writing, that a person who is liable under this section remit the amount of the claim prior to the commencement of any legal action.

(8) Judgments, but not claims, arising under this section may be assigned.

(9) In addition to any civil damages or penalties, or both, which may be recovered under this section, a judgment for recovery shall also include court costs.

(10) Civil claims under this section shall apply to those claims which arise after July 13, 1990.

Section 598. KRS 411.148 is amended to read as follows:

(1) No physician licensed under KRS Chapter 311, registered or practical nurse licensed under KRS Chapter 314, person certified as an emergency medical technician by the Kentucky ***Cabinet***[~~Department~~] for ***Health Services***[~~Human Resources~~], person certified by the American Heart Association or the American Red Cross to perform cardiopulmonary resuscitation, or employee of any board of education established pursuant to the provision of KRS 160.160, who has completed a course in first aid and who maintains current certification therein in accordance with the standards set forth by the American Red Cross shall be liable in civil damages for administering emergency care or treatment at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment excluding house calls, for acts performed at the scene of such emergency, unless such acts constitute willful or wanton misconduct.

(2) Nothing in this section applies to the administering of such care or treatment where the same is rendered for remuneration or with the expectation of remuneration.

(3) The administering of emergency care or treatment at the scene of an emergency by employees of a board of education shall not be considered to be rendered for remuneration or with the expectation of remuneration because such personnel perform such care as part of their regular professional or work responsibilities for which they receive their regular salaries from the school board which is their employer.

Section 599. KRS 431.100 is amended to read as follows:

(1) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(2) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for ***Health Services***[~~Human Resources~~] for the provision of treatment and counseling programs for alcoholics.

(3) Fines for violation of KRS 512.070 shall be transferred by the Circuit Clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.

(4) Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for matching funds for grants for providing services and programs to juvenile public offenders.

(5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due the state or any other public officer paid to any person or organization other than one specifically required by statute nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the state if the defendant makes a payment to another person or organization.

Section 600. KRS 431.600 is amended to read as follows:

(1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for ***Families and Children***[~~Human Resources~~]. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.

(2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of

contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.

(3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.

(4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.

(5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.

(6) Commonwealth's attorneys and county attorneys and the Cabinet for ***Families and Children***~~[Human Resources]~~ shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.

(7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

Section 601. KRS 431.650 is amended to read as follows:

(1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.

(2) The commission shall be comprised of the following members:

- (a) The commissioner of the Department for Social Services or a designee;
- (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
- (c) One (1) family service worker who is employed by the Department for Social Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;
- (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~;
- (e) The commissioner of the Kentucky State Police or a designee;
- (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice Cabinet;
- (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
- (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;
- (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
- (j) The commissioner of the Department of Education or a designee;
- (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education; and
- (l) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.

(3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.

(4) The commission shall elect a chairperson annually from its membership.

Section 602. KRS 441.047 is amended to read as follows:

(1) Whenever a prisoner confined in the county jail is in need of psychiatric or similar evaluation, treatment or services, it shall be the responsibility of the Commonwealth to provide such evaluation, treatment, or services at the expense of the Commonwealth at the nearest state operated or state supported facility suitable for the provision of the required evaluation, treatment, or services at no cost to the county.

(2) Whenever a criminal defendant is in need of psychiatric, sociological, or similar evaluation in connection with the criminal proceedings in which he is a defendant it shall be the responsibility of the Commonwealth to provide the evaluation at the nearest state operated or state supported facility suitable for the provision of the required evaluation at no cost to the county.

(3) In the event that no suitable state operated or state supported facility is located within a reasonable distance, then the evaluation may be made at a suitable local facility or at the jail. In such instances a request must first be made to the Cabinet for ***Health Services***~~[Human Resources]~~ to provide the evaluation, treatment or service unless the situation is an

emergency requiring immediate attention. If the cabinet cannot provide the service or if the situation is an emergency, then local resources may be utilized.

(4) In the event that local resources are utilized in an emergency situation, or when the Cabinet for ***Health Services***~~[Human Resources]~~ is unable to provide the evaluation, treatment, or service, then the reasonable cost of providing such service, treatment, or evaluation shall be paid from the State Treasury in the same manner as other medical expenses of indigent prisoners confined in the county jail.

(5) The Cabinet for ***Health Services***~~[Human Resources]~~ shall administer the provisions of this section and shall issue such administrative regulations as necessary to carry out the provisions of this section.

Section 603. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for ***Health Services***~~[Human Resources]~~. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the governmental services center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 604. KRS 504.060 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Department" means the Department of Corrections;

(2) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(3) "Foreseeable future" means not more than three hundred sixty (360) days;

(4) "Incompetency to stand trial" means that, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(5) "Insanity" means that, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(6) "Mental illness" means substantially impaired capacity to use self-control, judgment, or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological or social factors;

(7) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(8) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for

certification by the American Board of Psychiatry and Neurology, Inc.;

(9) "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to perform examinations;

(10) "Treatment" means medication or counseling, therapy, psychotherapy, and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery; and

(11) "Treatment facility" means an institution or part thereof, approved by the Cabinet for ***Health Services***~~[Human Resources]~~, which provides evaluation, care and treatment for insane, mentally ill or mentally retarded persons on an inpatient or outpatient basis, or both.

Section 605. KRS 504.080 is amended to read as follows:

(1) A court may commit a defendant to a treatment facility or forensic psychiatric facility for up to thirty (30) days so that a psychologist or psychiatrist can examine, treat and report on the defendant's mental condition, except that if the defendant is charged with a felony and it is determined that inpatient examination or treatment is required, the defendant shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary's designee determines that the defendant shall be examined and treated in another Cabinet for ***Health Services***~~[Human Resources]~~ facility.

(2) Reports on a defendant's mental condition prepared under this chapter shall be filed within ten (10) days of the examination.

(3) The defendant shall be present at any hearing on his mental condition unless he waives his right to be present.

(4) The examining psychologist or psychiatrist shall appear at any hearing on defendant's mental condition unless the defendant waives his right to have him appear.

(5) A psychologist or psychiatrist retained by the defendant shall be permitted to participate in any examination under this chapter.

(6) The Cabinet for ***Health Services***~~[Human Resources]~~, if the cabinet or its agent or employee does not provide the examination, shall pay a reasonable fee to any psychologist or psychiatrist ordered to examine, treat and report on a defendant's mental condition.

(7) The termination of criminal proceedings under this chapter is not a bar to the institution of civil commitment proceedings.

Section 606. KRS 504.110 is amended to read as follows:

(1) If the court finds the defendant incompetent to stand trial but there is a substantial probability he will attain competency in the foreseeable future, it shall commit the defendant to a treatment facility or a forensic psychiatric facility and order him to submit to treatment for sixty (60) days or until the psychologist or psychiatrist treating him finds him competent, whichever occurs first, except that if the defendant is charged with a felony, he shall be committed to a forensic psychiatric facility unless the secretary of the Cabinet for ***Health Services***~~[Human Resources]~~ or the secretary's designee determines that the defendant shall be treated in another Cabinet for ***Health Services***~~[Human Resources]~~ facility. Within ten (10) days of that time, the court shall hold another hearing to determine whether or not the defendant is competent to stand trial.

(2) If the court finds the defendant incompetent to stand trial but there is no substantial probability he will attain competency in the foreseeable future, it shall conduct an involuntary hospitalization proceeding under KRS Chapter 202A or 202B.

(3) If the court finds the defendant competent to stand trial, the court shall continue the proceedings against the defendant.

Section 607. KRS 510.320 is amended to read as follows:

(1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.

(2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall upon initial court appearance on the charge, be informed by the judge of the availability of human immunodeficiency virus testing. The judge shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.

(3) When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for ***Health Services***~~[Human Resources]~~.

(4) (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.

(b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for ***Health Services***~~[Human Resources]~~ to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing and to any other agency as directed pursuant to KRS Chapter 214.

(c) In addition, the Cabinet for ***Health Services***~~[Human Resources]~~ shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.

(5) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for ***Health Services***~~[Human Resources]~~ shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health care and support services.

(6) The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.

(7) Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

Section 608. KRS 529.090 is amended to read as follows:

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for ***Health Services***~~[Human Resources]~~ and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for ***Health Services***~~[Human Resources]~~ to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.

(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits, offers, or agrees to commit prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

Section 609. KRS 533.030 is amended to read as follows:

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the defendant not commit another offense during the period for which the sentence remains subject to revocation.

(2) When imposing a sentence of probation or conditional discharge, the court may, in addition to any other reasonable condition, require that the defendant:

(a) Avoid injurious or vicious habits;

(b) Avoid persons or places of disreputable or harmful character;

(c) Work faithfully at suitable employment as far as possible;

(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;

(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;

(f) Support his dependents and meet other family responsibilities;

(g) Pay the cost of the proceeding as set by the court;

(h) Remain within a specified area;

(i) Report to the probation officer as directed;

(j) Permit the probation officer to visit him at his home or elsewhere;

(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment; and

(l) If the defendant's record indicates a controlled substance or alcohol problem, submit to periodic testing for use of controlled substances or alcohol and pay a reasonable fee, not to exceed the actual cost of the test and analysis, as determined by the court, said fee to be collected by the circuit clerk, held in an agency account, and disbursed, on court order, solely to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis performed under this subsection. For good cause shown, the testing fee may be waived by the court.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for ***Health Services***~~[Human Resources]~~, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be awarded. The court may, in lieu of ordering monetary restitution, order the defendant to make restitution by working for or on behalf of the victim. The court shall determine the number of hours of work necessary by applying the then prevailing federal minimum wage to the total amount of monetary damage caused by or incidental to the commission of the crime. The court may, with the consent of the agency, order the defendant to work as specified in KRS 533.070. Any work ordered pursuant to this section shall not be deemed employment for any purpose, nor shall the person performing the work be deemed an employee for any purpose. Where there is more than one (1) defendant or more than one (1) victim, restitution may be apportioned. Restitution shall be subject to the following additional terms and conditions:

(a) Restitution by payment may be ordered in a lump sum or in specified payments;

(b) Restitution by payment may be ordered paid through the circuit clerk who shall disburse the moneys as ordered by the court;

(c) Where property which is unlawfully in the possession of the defendant is in substantially undamaged condition from its condition at the time of the taking, return of the property shall be ordered in lieu of monetary restitution;

(d) Restitution by payment to governmental agencies shall be made through payments to and disbursement by the circuit clerk;

(e) The circuit clerk shall assess an additional fee of two percent (2%) to defray the administrative costs of collection of payments or property. This fee shall be paid by the defendant and shall enure to the general fund of the State Treasury;

(f) When a defendant fails to make restitution ordered to be paid through the circuit clerk, the circuit clerk shall notify the court. The court shall hold a hearing to determine if the defendant is in contempt of the court or has violated the terms of his probation; and

(g) An order of restitution shall not preclude the owner of property or the victim who suffered personal physical or mental injury or out-of-pocket loss of earnings or support or other damages from proceeding in a civil action to recover damages from the defendant. A civil verdict shall be reduced by the amount paid under the criminal restitution order.

(4) In addition to any other terms and conditions imposed under this section, the court may require the probationer, as a condition of his probation, to make one (1) payment to a crime stoppers organization in an amount not to exceed the amount of the reward paid by a crime stoppers organization, as defined by KRS 431.570, relative to the probationer.

(5) When a defendant is sentenced to probation or conditional discharge, he shall be given a written statement explicitly setting forth the conditions under which he is being released.

(6) When imposing a sentence of probation or conditional discharge, the court, in addition to conditions imposed under this section, may require as a condition of the sentence that the defendant submit to a period of imprisonment in the county jail or to a period of home incarceration at whatever time or intervals, consecutive or nonconsecutive, the court shall determine. The time actually spent in confinement or home incarceration pursuant to this provision shall not exceed six (6) months or the maximum term of imprisonment assessed pursuant to KRS Chapter 532, whichever is the shorter. Time spent in confinement or home incarceration under this subsection shall be credited against the maximum term of imprisonment assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional discharge is revoked and the defendant is sentenced to imprisonment. Any prohibitions against probation, shock probation, or conditional

discharge under KRS 533.060(2), or 532.045 shall not apply to persons convicted of a misdemeanor or Class D felony and sentenced to a period of confinement or home incarceration under this section.

Section 610. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for ***Families and Children***[~~Human Resources~~];

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for ***Families and Children***[~~Human Resources~~] and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for ***Families and Children***[~~Human Resources~~], Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the

child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a

motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for ***Families and Children***[~~Human Resources~~];

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 611. KRS 600.040 is amended to read as follows:

When KRS 605.090, 605.100, 605.110, 605.115, 610.110, or any other section of this code refer jointly to the operation of a program or service by both the Department of Juvenile Justice and the Cabinet for ***Families and Children***~~[Human Resources]~~, the following divisions are intended:

(1) Facilities, programs, and services relating to juveniles under KRS Chapter 635 or 640, or under KRS Chapter 645 as relates to a child who is mentally ill and who also comes within the purview of KRS Chapter 635 or 640, shall be the responsibility of the Department of Juvenile Justice.

(2) Facilities, programs, and services relating to juveniles under other chapters of the code, including KRS Chapter 630, shall be the responsibility of the Cabinet for ***Families and Children***~~[Human Resources]~~.

Section 612. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the Department of Juvenile Justice or the cabinet requires medical or surgical care or treatment, the Department of Juvenile Justice or the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to the medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the Department of Juvenile Justice or the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for ***Families and Children***~~[Human Resources]~~ Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the Kentucky Board of Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Department of Juvenile Justice or the Cabinet for ***Families and Children***~~[Human Resources]~~ and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Department of Juvenile Justice or the cabinet. The Kentucky Department of Education, the Department of Juvenile Justice, and the Cabinet for ***Families and Children***~~[Human Resources]~~, Department for Social Services, shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children.

(b) Teachers and other staff shall be hired on contract through a local school district or if the local school district is not willing to participate, teachers shall be hired by the Kentucky Educational Cooperative for State Agency Children. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teachers' Retirement System.

(c) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children pursuant to KRS 156.0951;

3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed

pursuant to paragraph (e) of this subsection for the education of Kentucky's children.

(d) The commissioner of Juvenile Justice and the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the Kentucky Board of Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall:

1. Provide for the development and implementation of interagency agreements that:
   a. Define the financial responsibility of each state and local agency for providing services to state agency children;
   b. Establish procedures for resolving interagency disputes among agencies that are parties to the agreements; and
2. Provide procedures for the implementation of the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for ***Families and Children***~~[Human Resources]~~.

(e) The commissioner of Juvenile Justice and the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~ and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative for State Agency Children.

Section 613. KRS 605.115 is amended to read as follows:

The commissioner of the Department of Juvenile Justice and the secretary of the Cabinet for ***Families and Children***~~[Human Resources]~~, with the cooperation of the Kentucky Board of Education and the commissioner of education, shall implement policies to assure that local school districts providing a funding match shall have direct access to Medicaid funding as Medicaid providers for the provision of health-related services to eligible children with disabilities under the age of twenty-one (21) years of age. They shall develop policies and procedures so the Department of Education can transfer the local school districts' matching funds to the Department for Medicaid Services. They shall also review state and federal statutes and regulations to determine the eligibility of local school districts to receive Medicaid reimbursement for health-related services identified on a child's individual education plan.

Section 614. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635 (with regard to status offenses, misdemeanors, or violations only), or 645, but not KRS Chapters 620 or 640, may petition the court for the expungement of his juvenile court record, except for adjudications involving guilt of an offense which would have been a felony if the offense was committed by an adult. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court, a representative of the cabinet, or any other interested person may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the Cabinet for ***Families and Children***~~[Human Resources]~~ or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the cabinet or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); and

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person

who is the subject of such records, and only to those persons named in such petition.

Section 615. KRS 615.040 is amended to read as follows:

The following provisions apply to the compact described in KRS 615.030:

(1) The following definitions apply to KRS 615.030:

(a) As used in paragraph (a) of Article V of the interstate compact on the placement of children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the Cabinet for ***Families and Children***~~[Human Resources]~~.

(b) The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children shall, with reference to this state, mean the Cabinet for ***Families and Children***~~[Human Resources]~~ and said cabinet shall receive and act with reference to notices required by said Article III.

(c) As used in Article VII of the interstate compact on the placement of children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII.

(2) Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children:

(a) Shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of KRS 405.020 shall apply.

(b) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in another party state pursuant to paragraph (b) of Article V of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of the Finance and Administration Cabinet in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

(3) Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the interstate compact on the placement of children and shall retain jurisdiction as provided in Article V of KRS 615.030 thereof.

(4) No person or institution shall bring or send, or cause to be brought or sent, a dependent child into this state from another state for the purpose of placing him in a family home, either with or without indenture or for adoption, without first filing a ten thousand dollar ($10,000) bond with the county judge/executive of the county in which the child is to be placed.

(5) The bond shall be conditioned as follows:

(a) That they will not bring or send, or cause to be brought or sent, into this state any child that is incorrigible or of unsound mind or body or who has any contagious or incurable disease;

(b) That they will immediately, upon placing the child, report to the department the name and age of the child, and the name and residence of the person with whom he is placed;

(c) That if the child becomes a public charge before reaching his majority, they will, within thirty (30) days after receiving written notice of such fact from the department, remove the child from the state;

(d) That if the child is convicted of a crime or misdemeanor and is imprisoned, within five (5) years of the time of his arrival, they will remove the child from the state immediately upon his release;

(e) That they will place each dependent child by written contract with a person who will furnish the child a proper home, and will make the person receiving the child responsible for its proper care, education and training;

(f) That they will properly supervise the care and training of the child, and visit each child at least once a year;

(g) That they will make such reports to the department as the department requires.

(6) The provisions of KRS 615.030 shall not apply to a parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt going to any other state or country and bringing a child into this state for the purpose of giving it a home in his own family, and may be waived by the department for any child brought into the state under the supervision of the division or licensed child-caring or child-placing institution or agency by written agreement with the responsible agency of the other state or country, or under special circumstances agreed to in writing by the cabinet and the persons wishing to import a child.

(7) The provisions of subsections (4) and (5) of this section shall not apply to placements made pursuant to the interstate compact on the placement of children.

Section 616. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or

county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.

(3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exists reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(5) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for ***Families and Children***~~[Human Resources]~~ and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.

(f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

Section 617. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Families and Children***[~~Human Resources~~], of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Families and Children***[~~Human Resources~~], of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for ***Families and Children***[~~Human Resources~~], of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250); and

(d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Section 618. KRS 620.145 is amended to read as follows:

(1) Within sixty (60) days of the commitment date of a child due to abuse, neglect, or dependency, the Cabinet for ***Families and Children***[~~Human Resources~~] shall provide the court with jurisdiction an assessment of the child to determine:

(a) The child's current and historical educational functioning;

(b) The child's emotional and behavioral functioning; and

(c) The extent to which the child's life experiences and circumstances of commitment have created a disabling condition requiring special educational programming or other services to provide the child an appropriate public education.

(2) Upon discerning of an emotional, behavioral, or other disabling condition with negative impact upon a child's educational experience, the Cabinet for ***Families and Children***[~~Human Resources~~] as guardian of the child shall ensure that whatever services necessary are obtained to allow the child the benefit of a free, appropriate public education.

(3) Services required to allow the child a free, appropriate public education shall be limited to those required under Section 504 of Public Law 93-112, Public Law 94-142, or other federal statutes affecting children with emotional or behavioral disabilities.

(4) The Cabinet for ***Families and Children***[~~Human Resources~~] shall include activities undertaken to ensure a child committed to the Cabinet for ***Families and Children***[~~Human Resources~~] receives adequate public education in the six

(6) month case progress report required by KRS 620.240.

(5) Any child removed from his home due to abuse, neglect, or dependency and placed in the least restrictive appropriate placement available shall, for the purposes of acquiring an appropriate public education, be considered a resident of the school district where the placement occurs.

Section 619. KRS 625.041 is amended to read as follows:

(1) The only party to an action for voluntary termination of parental rights shall be the parent seeking termination, but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the Cabinet for ***Families and Children***[~~Human Resources~~] receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

Section 620. KRS 625.043 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of the parent and releasing the child from all legal obligations to the parent and vesting care and custody of the child in the person, agency, or cabinet the court believes is best qualified to receive custody.

(2) Upon consent by the Cabinet for ***Families and Children***[~~Human Resources~~], the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is not excepted by KRS 199.470(4) or (5), a grant of permanent custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.

Section 621. KRS 625.100 is amended to read as follows:

(1) If the Circuit Court determines that parental rights are to be terminated involuntarily in accordance with the provisions of this chapter, it shall enter an order that the termination of parental rights and the transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter. The order shall terminate all parental rights and obligations of such parent and release the child from all legal obligations to such parent and vest care and custody of the child in such person, agency or cabinet as the court believes best qualified.

(2) Upon consent by the Cabinet for ***Families and Children***[~~Human Resources~~], the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person, if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is unrelated to the child, a grant of custody shall be made only with the written approval of the secretary or his designee.

Section 622. KRS 635.520 is amended to read as follows:

(1) The Department of Juvenile Justice shall have the sole authority and responsibility for establishing the design of the juvenile sexual offender treatment program but shall consult with the Administrative Office of the Courts and the Cabinet for ***Families and Children***[~~Human Resources~~].

(2) The Department of Juvenile Justice may enter into agreements with public or private agencies in order to implement and operate the juvenile sexual offender treatment program.

Section 623. KRS 640.050 is amended to read as follows:

(1) Any period of probation or conditional discharge required by the sentencing court to be served shall be supervised, as the court may determine by written order, by:

(a) The Department of Juvenile Justice;

(b) The Department of Corrections; or

(c) The designated representative of either of the above.

(2) The Cabinet for ***Families and Children***[~~Human Resources~~] may make recommendations to the Circuit Court concerning the disposition of the youthful offender.

(3) The court may order any of the above alternatives without regard to the age of the youthful offender.

Section 624. KRS 640.090 is amended to read as follows:

Upon the determination that a person is a youthful offender, the Cabinet for ***Families and Children***[~~Human Resources~~], the Department of Juvenile Justice, and all other public agencies possessing records relating to the youthful offender shall, upon request, provide copies of the records to the Kentucky Parole Board and to the Department of Corrections. No record relating to the child, except records maintained by the youthful offender's defense attorney or the Department of Public Advocacy, if he was defended by that department, shall be deemed privileged from disclosure to the Parole Board.

Section 625. KRS 640.100 is amended to read as follows:

All officials of the Cabinet for ***Families and Children***[~~Human Resources~~] and the Department of Corrections shall furnish members of the Parole Board, or its properly accredited representatives:

(1) Access at all reasonable times to any youthful offender over whom the board has jurisdiction under this chapter;

(2) Facilities for communicating with and observing the youthful offender;

(3) The reports the board requires concerning the conduct and character of any youthful offender in its custody; and

(4) Any other facts deemed pertinent by the board in determining whether the youthful offender shall be paroled.

Section 626. KRS 640.110 is amended to read as follows:

When a youthful offender is transferred to the Department of Corrections in accordance with this chapter, the Cabinet for ***Families and Children***[~~Human Resources~~] shall transfer a copy of all records relating to the youthful offender to the Department of Corrections.

Section 627. The following KRS sections are repealed:

194.010 Cabinet for Human Resources -- Functions.

194.025 Power and authority of secretary.

194.030 Major organizational units of cabinet.

194.040 Internal organization of offices and bureaus.

194.050 Execution of policies, plans, and programs -- Administrative regulations -- Fees.

194.060 Confidentiality of records and reports.

194.070 Utilizing community resources for delivery of services.

194.080 Cost allocation plan.

194.090 Citizen advisory bodies.

194.100 Annual joint conference of citizen advisory bodies.

194.110 Bodies attached for administrative and support purposes.

194.120 Bodies attached to cabinet with statutory authority to issue administrative regulations.

194.130 Limitation on administrative processes.

194.135 Developmental Disabilities Planning Council -- Members -- Duties.

194.140 Special subcommittees.

194.150 State officials as voting members of citizens' councils.

194.160 Alternates or representatives for boards, councils, committees, and similar bodies.

194.170 Secretary's authority to create special task forces, advisory committees, and citizens' panels.

194.180 Rules and regulations of various bodies.

194.190 Gifts and grants.

194.200 Compensation and expenses of members of councils.

194.350 Liability insurance for physicians, hospital administrators, and directors employed by cabinet.

194.360 Annual report on committed children -- Contents.

194.370 In-service training for social workers on child sexual abuse.

194.500 Definitions.

194.505 Prohibited activities -- Commencement of proceedings for enforcement.

194.510 Defense in prosecution.

194.515 Access to criminal records by cabinet's agents.

194.530 Training and continuing education courses for Department for Social Services staff.

194.535 Training requirements for staff of agencies providing shelter services for victims.

194.540 Training courses for mental health professionals and health care providers.

194.550 Definitions for KRS 194.550 to KRS 194.559.

194.552 Office on Alzheimer's Disease and Related Disorders -- Director -- Report -- Purposes and duties.

194.555 Alzheimer's Disease and Related Disorders Council -- Members -- Duties.

194.559 Authority to promulgate administrative regulations.

194.990 Penalties.

195.120 Purpose of KRS 195.130 and 195.140.
195.130 Definition for KRS 195.120 to 195.140.
195.140 Programs for displaced homemakers.
195.180 Duties.

Section 628. In order to reflect the reorganization effectuated by this Act, the Reviser of Statutes, in codifying newly-enacted text in legislation from this 1998 Regular Session of the General Assembly, shall, where he deems it necessary and appropriate, replace references to the former Cabinet for Human Resources and to its officers and subagencies with references to the appropriate successor cabinet, officer, or subagency established by this Act. In so doing, the Reviser of Statutes shall base his actions on the functions assigned to the various new entities by this Act and may consult with the Secretaries of the Cabinet for Human Services and the Cabinet for Children and Families, or their designees, to receive their suggestions.

Section 629. To the extent that the following specified executive orders are not otherwise confirmed or superseded by this Act, the General Assembly hereby confirms Executive Order 96-862, dated July 2, 1996, relating to reorganization of the Cabinet for Human Resources, as amended by the following:

(1) Executive Order 96-1494, dated November 8, 1996, relating to the internal structure of the Cabinet for Health Services. The Divisions of State and Local Health Administration, of Laboratory Services, of Epidemiology, of Individual and Clinic Providers, and of Facilities and Alternative Services were established within the Department for Public Health. Specified state owned, contracted, operated, or comanaged facilities were attached to the Office of the Commissioner within the Department for Mental Health and Mental Retardation Services for management and administrative purposes, and Divisions of Administration and Financial Management, of Maternal and Child Health, of Health Systems Development, and of Environmental Health and Community Safety were established within that department. Divisions of Administration and Development, of Mental Health, of Mental Retardation, and of Substance Abuse were established within the Department for Medicaid Services. Divisions of Licensing and Regulation, of Audits, and of Special Investigations were established within the Office of the Inspector General. Divisions of Administrative Services and of Clinical Services were established for the Commission for Children with Special Health Care Needs.

(2) Executive Order 96-1499, dated November 8, 1996, relating to the internal structure of the Cabinet for Families and Children. The Divisions of Operations and Resource Management and of Financial Management were established within the Office of Program Support. The Divisions of Program Management, of Aging Services, and of Family Services were established within the Department of Social Services. The Divisions of Management and Development, of Field Services, of Administrative Review, of Child Support Enforcement, and of Disability Determinations were established within the Department for Social Insurance. The Office of Advocacy and Accountability was renamed the Office of the Ombudsman.

(3) Executive Order 97-1348, dated October 16, 1997, reorganizing the divisional structure within the Department for Public Health that had been established in Executive Order 96-1494. The Division of State and Local Health Administration was renamed the Division of Resource Management; the Division of Maternal and Child Health was renamed the Division of Adult and Child Health; the Division of Epidemiology was renamed the Division of Epidemiology and Health Planning; the Division of Environmental Health and Community Safety was renamed the Division of Public Health Protection and Safety; the Division of Local Health Department Operations was established; and the Division of Health Systems Development was abolished.

HB 154, AN ACT relating to the Kentucky Historical Society.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.313 is amended to read as follows:

In addition to the responsibilities set forth in KRS 171.311, the Kentucky Historical Society shall:

(1) Collect, maintain, preserve, categorize, and cause to be published necessary information concerning Kentucky family cemeteries;

(2) Undertake a systematic program which will restore and maintain the gravesites of ***any of the following historically significant people who are buried within this Commonwealth:***

(a) Past Governors of the Commonwealth;

(b) The three (3) former Vice Presidents of the United States from the Commonwealth: Richard M. Johnson; John C. Breckinridge; and Alben W. Barkley; and

(c) The "First Pioneers," who were the original members in the first settlements at either Boonesboro, Harrodsburg, or Stanford in 1774-1775; and

(3) Promulgate administrative regulations necessary to carry out the purposes of this section.

HJR 2, A JOINT RESOLUTION directing the Finance and Administration Cabinet to rename the Kentucky Veterans

Center the "Thomson-Hood Veterans Center" in honor of Lieutenant Colonel George Thomson and Mrs. Beatrice Hood.

WHEREAS, Lieutenant Colonel George Thomson served his country and state with dedication, courage, and honor during three U.S. military conflicts: World War II, the Korean War, and the Vietnam War, and after this service, performed admirably in support of veteran programs; and

WHEREAS, Lieutenant Colonel George Thomson provided the vision, leadership, and initiative that resulted in the Commonwealth of Kentucky authorizing the construction of a 300-bed, long term care facility to serve the state's elderly veterans; and

WHEREAS, Mrs. Beatrice Hood served with remarkable effectiveness as the first administrator of the Kentucky Veterans Center, consistently providing an exceptionally high quality of care for Kentucky veterans and creating a model for other long term care facilities around the country; and

WHEREAS, Mrs. Hood's high personal and professional standards were reflected in her numerous achievements which included the award of a "Superior" rating to the Kentucky Veterans Center for each year of operation; and

WHEREAS, Lieutenant Colonel George Thomson and Mrs. Beatrice Hood overcame many obstacles to insure a high quality of care for Kentucky's elderly veterans and will long be remembered and honored by all Kentuckians;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Finance and Administration Cabinet is directed to rename the Kentucky Veterans Center the "Thomson-Hood Veterans Center".

Section 2. The Transportation Cabinet shall prepare the appropriate highway signs to conform with Section 1 of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Finance and Administration Cabinet, the Secretary of the Transportation Cabinet, the Acting Commissioner of Veterans Affairs, and the Executive Director of the Kentucky Veterans Center in Wilmore, Kentucky.

HCR 3, A CONCURRENT RESOLUTION requesting the Legislative Research Commission to reestablish the Subcommittee on Veterans' Affairs.

WHEREAS, Kentucky's veterans have many concerns meriting legislative attention; and

WHEREAS, the present committee structure of the Kentucky General Assembly does not allow proper attention to be paid to these concerns; and

WHEREAS, the Subcommittee to Study Problems of Vietnam Veterans in Kentucky requested the Legislative Research Commission to establish a permanent committee on veterans' affairs; and

WHEREAS, Kentucky owes its veterans a debt of gratitude for service in defense of their country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky Legislative Research Commission is requested to establish a Subcommittee on Veterans' Affairs to operate during the 1998-99 interim and present recommendations to the Kentucky General Assembly.

Section 2. It is recommended that this subcommittee be appointed by the Legislative Research Commission.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committee (Continued)

The Committee on Rules reported that **HB 27** and **HB 74** have been posted for passage in the Orders of the Day for January 14, 1998.

Floor Amendments

Floor Amendment No. 4 to **HB 27**, by Representative Geveden:

On page 3, line 5, by deleting "***eight (8)***";

On page 3, line 5, by removing all brackets and strike throughs;

On page 3, line 6, after "follows:", by inserting "***one (1) representative from the daily newspaper with the largest circulation in the county where the execution will be conducted,***".

Floor Amendment No. 5 to **HB 27**, by Representative Marcotte:

On page 1, between lines 20 and 21, by inserting the following:

"***(3) No physician shall be involved in the conduct of an execution except to certify cause of death provided that the condemned is declared dead by another person.***"

Floor Amendment No. 4 to the Committee Substitute to **HB 62**, by Representative Murgatroyd:

On page 26, line 16, by deleting "***(7)***" and by deleting the closing bracket after "~~(6)~~" and by striking through all the language on that line; and

On page 26, line 17, by striking through all language on that line; and

On page 26, line 18, by striking through all language on that line and placing a closing bracket at the end of the line.

Floor Amendment No. 5 to the Committee Substitute to **HB 62**, by Representative Stumbo:

On page 10, line 25, after "convicted" by inserting "***and persons who qualify under subparagraph 5. of paragraph (a) of this subsection***"; and

On page 11, line 15, by placing brackets around and striking through "and"; and

On page 11, line 17, after "crime" by inserting the following:

"***; and***

5. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires the voter to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office"; and

On page 29, line 26, by deleting "17" and inserting in lieu thereof "27".

Floor Amendment No. 6 to the Committee Substitute to **HB 62**, by Representative Ford:

On page 1, line 5, by deleting "***December 31***" and inserting in lieu thereof "***the twenty-eighth day***"; and

On page 1, line 6, after "***primary***" by inserting "***election***" and by removing the closing bracket following "~~regular~~" and by striking through the remaining language on that line; and

On page 1, line 7, by deleting all underlined language on that line and by removing the opening bracket before "~~not~~"; and

On page 1, line 8, by removing the closing bracket after "~~election,~~" and by striking through "have"; and

On page 1, line 9, by striking through and placing a closing bracket after "registered and remained registered as a member of that party"; and

On page 1, line 21, after "KRS 118.155" by inserting "***and this subsection***"; and

On page 2, line 1, after "declaration." by inserting "***A candidate at a primary election shall be registered as a member of the political party whose nomination he seeks at the time the candidate files a notification and declaration, and shall remain registered as a member of that party through the twenty-eighth day preceding the primary election.***"; and

On page 2, line 15, by inserting "***am***" at the beginning of the line and by placing brackets around and striking through "was" and after "with" by inserting "***that***" and by placing brackets around and striking through "such" and by deleting "***on December 31***" and inserting in lieu thereof "***and will be affiliated with that party on the twenty-eighth day***"; and

On page 3, line 13, after "we" by inserting "***are***" and by placing brackets around and striking through "will be or were" and by deleting "***on December 31***" and inserting in lieu thereof "***and will be affiliated with that party on the twenty-eighth day***"; and

On page 29, line 20, after "voter" by deleting the remaining language on that line; and

On page 29, line 21, by deleting all language on that line; and

On page 29, line 22, by deleting "at the close of business on the effective date of this Act"; and

On page 29, line 23, after "on" by deleting "the" and inserting in lieu thereof "April 28, 1998."; and

On page 29, lines 24 to 27, by deleting all language on those lines; and

On page 30, lines 1 to 3, by deleting all language on those lines.

Motions, Petitions and Communications

Representative Mason moved the adoption of the following **Legislative Citation No. 14**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mr. and Mrs. Dennis Dixon upon the auspicious occasion of their 60th Wedding Anniversary. Married on January 8, 1938, Pelma and Dennis Dixon have created an exceptional marriage based upon the sterling qualities of companionship and devotion. This honorable body holds in high esteem the extraordinary abilities of this cherished couple to cultivate and nurture a loving family and cherished friendships. Representative Paul Mason is pleased to join with their four beloved children, Charles, Peggy, Larry and Patricia, in recognizing these rare and unique virtues in Mr. and Mrs. Dixon and in wishing for them many more years of happiness and fulfillment. **Legislative Citation No. 14** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 1, line 5, by deleting "***trade-in***" and inserting in lieu thereof "***loan***"; and

On page 17, by deleting lines 12 to 19 in their entirety and inserting in lieu thereof the following:

"Section 9. The amendment contained in Section 1 of this Act shall apply to tax assessments made on or after January 1, 1999.".

Motions, Petitions and Communications (Continued)

Representative Ballard moved the adoption of the following **Legislative Citation No. 12**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest welcome to this beautiful state and declares that Ernie and Maggie Hutchinson be designated Indiana Goodwill Ambassadors during their excursion into Kentucky. For it can be said that Kentucky and Indiana share mutual state borders, the Ohio River and an amazing passion for basketball; and that Representative Eddie Ballard and Rachel Ballard and Ernie and Maggie Hutchinson represent an unofficial delegation that has formed a special bond of lifetime, as have the two states, promoting harmony and cooperation. Let it be known this thirteenth day of January that the Kentucky House of Representatives recognized the very unique friendship that exists between Indiana and Kentucky as well as between Representative Eddie Ballard and his wife, Rachel, and their extraordinary "Hoosier" friends, and does adjourn this day in their honor. **Legislative Citation No. 12** was adopted without objection.

Representative Ballard moved the adoption of the following **Legislative Citation No. 16**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby declares that Ron and Beverly Hanks be designated "Kentucky Good Citizens" during their visit to the State Capitol. For it can be said that true friendship is the basis for all good will and the phenomenal friendship that exists between Representative Eddie Ballard and Rachel Ballard and Ernie and Maggie Hutchinson and Ron and Beverly Hanks has formed a lifetime bond that is the highest shining example of companionship and harmony. Let it be known this thirteenth day of January that the Kentucky House of Representatives recognized the very unique friendship that exists between said recipients and does adjourn this day in their honor. **Legislative Citation No. 16** was adopted without objection.

Representative Thomas moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 15**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Ms. Stacey Coy. The House of Representatives joins Representative Roger Thomas in expressing its deepest sympathy to all who share in the loss through the tragic and untimely passing of this young Kentucky woman. Stacey, a senior health care administration major, was co-captain of the Western Kentucky University football cheerleaders. This spirited, friendly and much-loved young woman is remembered this day with gratitude for her remarkable presence, with sorrow for the brevity of her days and with sincere and heartfelt condolences to her family and friends. **Legislative Citation No. 15** was adopted without objection.

Representative Riner moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 38, by Representative Riner: A RESOLUTION adjourning the House of Representatives in sympathy with the family of Adrian Reynolds and other families throughout the Commonwealth of Kentucky who have lost loved ones needlessly while incarcerated.

Representative Riner moved the adoption of the following **HR 38**:

HR 38, A RESOLUTION adjourning the House of Representatives in sympathy with the family of Adrian Reynolds and other families throughout the Commonwealth of Kentucky who have lost loved ones needlessly while incarcerated.

WHEREAS, Ann Reynolds, the mother of Adrian Reynolds, and the Reverend Richard Reynolds, cousin of Adrian Reynolds, are to be commended as outspoken Christian witnesses to their community of the important role families play as the primary advocate for those who have been placed in custody of the state; and

WHEREAS, the Federal Bureau of Investigation should be commended for initiating its own investigation of the arrest of Adrian Reynolds and his death in the struggle with five corrections officers at the Jefferson County Jail; and

WHEREAS, Louisville Police Chief, Doug Hamilton, is to be commended for initiating an internal affairs investigation; and

WHEREAS, there is nothing more important to good race relations in Kentucky than that public officials demonstrate through their actions their commitment to truth and mercy, the two cardinal pillars of justice; and

WHEREAS, in order for justice to prevail, public officials must demonstrate their commitment to truth by undertaking the kind of professional investigations which pass the litmus test of public confidence in the integrity of the process; and

WHEREAS, Commonwealth's Attorney, David Stengel, should be commended for initiating a criminal investigation into this matter; and

WHEREAS, Jefferson County Coroner, Dr. Richard Greathouse, should be commended for his professionalism in conducting a thorough autopsy of Adrian Reynolds;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the office of the United States Attorney in Louisville, Kentucky, and the United States Attorney General to take swift action to prosecute those responsible for the death of Adrian Reynolds should the Federal Bureau of Investigation determine that such prosecution is warranted and that Adrian Reynolds' civil rights were violated under the color of law.

Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the Director of Jefferson County Corrections, Ron Bishop, to initiate an internal investigation into this matter.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution along with a roll call vote of those co-sponsoring this Resolution, and a cover letter from the sponsor of this Resolution to the Honorable Janet Reno, Attorney General of the United States, 10th and Constitution Avenue, N.W., Washington, D.C. 20530; to the Honorable Michael Troop, Office of the United States Attorney, 510 West Broadway, 10th floor - Bank of Louisville Building, Louisville, Kentucky 40202; to the Honorable E. Douglas Hamilton, Police Chief, Louisville Police Department, 633 West Jefferson Street, Louisville, Kentucky 40202; to the Honorable Ronald L. Bishop, Chief, Jefferson County Corrections, 730 West Main Street, Suite 300, Louisville, Kentucky 40202; and to Mrs. Ann Reynolds and Mr. Richard Reynolds, c/o St. Stephen Baptist Church, 1008 South 15th Street, Louisville, Kentucky 40210.

There being no objection **HR 38** was adopted. A roll call vote to co-sponsor HR 38 was adopted (See Co-Sponsor roll calls in Appendix E).

Floor Amendments (Continued)

Floor Amendment No. 5 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 5, beginning with line 7 after "retail price" and ending with line 12 by bracketing and striking through the existing language and inserting the following:

"***means the total consideration given at the time of purchase or at a later date, including all equipment and accessories, standard and optional, and including the average loan value, from an automotive reference manual prescribed by the Revenue Cabinet, for any motor vehicle taken in trade, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually***

notarized. Total consideration given shall not include:

1. Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

2. Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; or

3. Any item not considered to be equipment or accessories.

If a notarized affidavit signed by both the buyer and seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the Revenue Cabinet;".

Floor Amendment No. 6 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 17, after line 11 and before line 12, by inserting the following:

"Section 9. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; ~~[and]~~

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800***; and***

(18) Motor vehicles valued at seven thousand five hundred dollars ($7,500) or less under Section 1 of this Act.

On page 17, line 12, by deleting "Section 9" and inserting in lieu thereof "Section 10"; and

On page 17, line 20, by deleting "Section 10" and inserting in lieu thereof "Section 11".

Floor Amendment No. 7 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 17, after line 11 and before line 12, by inserting the following:

"Section 9. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; ~~[and]~~

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800***; and***

***(18) Motor vehicles more than seven (7) years old*.**

On page 17, line 12, by deleting "Section 9" and inserting in lieu thereof "Section 10"; and

On page 17, line 20, by deleting "Section 10" and inserting in lieu thereof "Section 11".

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Counties and Special Districts: **HB 56**

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that **HB 56** be reassigned to the Committee on Counties and Special Districts. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 56** be waived. Agreed.

Representative Stumbo moved that **HB 254** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 13**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends Estill County High School Students Whose ingenuity, vision and concern for the future of East Kentucky has inspired them to seek new and innovative solutions for the problems of their homeland. Said recipients have utilized the academic resources of Estill County High School to forge new ideas and develop twenty-first century foresight insofar as moving beyond the academic community to seek implementations of their ideas. The Kentucky House of Representatives joins Representative Gregory D. Stumbo in saluting the speculative attitudes of these remarkable students and in wishing them well in their efforts to forge new horizons. **Legislative Citation No. 13** was adopted without objection.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills (Continued)

HB 260, by Representative Reinhardt: AN ACT relating to unemployment insurance.

HB 261, by Representative Scott: AN ACT relating to disaster and emergency response activity.

HB 262, by Representative Coleman: AN ACT relating to emergency medical services.

HB 263, by Representatives Coleman, D. Butler, Crimm, and Burch: AN ACT relating to charitable gaming and declaring an emergency.

HB 264, by Representative Collins: AN ACT relating to motor carriers.

HB 265, by Representative Collins: AN ACT relating to motor vehicles.

HB 266, by Representative Treesh: AN ACT relating to utility gross receipts taxes.

HB 267, by Representative Treesh: AN ACT relating to motor vehicle insurance.

HB 268, by Representatives Gooch, J. Arnold, Crall, Maricle, Baugh, Thomas, Newsome, Anderson, Stacy, Hogancamp, and Damron: AN ACT relating to management of prisoners.

HB 269, by Representative Simpson: AN ACT relating to juveniles.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 226, HB 30**

Health and Welfare: **HB 189**

Cities: **HB 73**

Motions, Petitions and Communications (Continued)

Representative Coleman moved that **HB 55** be withdrawn. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **HB 64**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 64** and **HB 67**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "nay" on **HB 16**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 100**. Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **HB 64** and **HB 67**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HR 13**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: **HB 1**, Representatives Thomas, D. D. Butler; **HB 2, HB 7, HB 53, HB 70, HB 85, HB 151**, D. D. Butler; **HB 58**, Representative Worthington; **HB 11, HB 13, HB 18, HB 56, HB 68, HB 85, HB 106, HB 217, HB 218**, Representative Maricle; **HB 21**, Representative G. Graham; **HB 26**, Representatives R. Adams, Maricle; **HB 50**, Representative Colter; **HB 52**, Representatives R. Adams, Maricle, D. D. Butler; **HB 54**, Representatives Gooch, D. D. Butler; **HB 74**, Representatives Hoover, Treesh; **HB 106**, Representatives Walton, Simpson, Colter, Murgatroyd, Stumbo, Brandstetter, R. Adams, Worthington, Kerr; **HB 131, HB 154, HB 240**, Representative Colter; **HB 175**, Representative R. Adams; **HB 212**, Representative Gooch; **HB 217**, Representative A. Arnold; **HB 226**, Representative Stumbo; **HB 240**, Representative McKee; **HB 256**, Representatives Hogancamp, Nesler, Gray; **HB 258**, Representative Geveden; **HJR 2**, Representative Barrows.

Announcements

The following meetings were canceled: Tourism, January 14, 1998; Licensing and Occupations, January 14, 1998

The following meetings were announced: Elections and Constitutional Amendments, January 14, 1998, 10:00 a.m., Room 131; Administrative Regulation Review, January 14, 1998, 8:30 a.m., Room 125; Jefferson County Delegation, January 15, 1998, 3:30 p.m. or upon adjournment, Room 125; Counties and Special Districts, January 14, 1998, Noon

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 14, 1998.

On the roll call the vote was **Yeas 77**–R. Adams, Adkins, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, Coleman, Collins, Colter, Cox, Crenshaw, Curd, Damron, DeWeese, Ford, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 5**–Crall, Heleringer, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 14, 1998

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Joe Adams, Chaplain Ministries, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 13, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 2 to **HB 145**, by Representative Stine:

On page 2, line 14, after the word "guardian", by inserting the following new language,

"***. The cabinet shall require that, prior to any referral by a family resource and youth services center of a minor child to any entity for a medical or psychological assessment, service, or treatment, informed written consent of a parent or legal guardian shall be obtained by school personnel, including, but not limited to, family resource and youth service center staff and personnel***".

Floor Amendment No. 1 to **HB 145**, by Representative Stine:

On page 2, line 11, by placing brackets around and striking through "214.185,".

Introduction of Bills and Resolutions

HB 270, by Representatives Lovell, Palumbo, D. Graham, Murgatroyd, Geveden, Bowling, L. Clark, Johns, Jenkins, Coleman, Clarke, Marzian, and Jordan: AN ACT relating to the Kentucky Unified Juvenile Code.

HB 271, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 272, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 273, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 274, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 275, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 276, by Representative Gray: AN ACT relating to crimes and punishments.

HB 277, by Representative Gray: AN ACT relating to health insurance.

HB 278, by Representative Gray: AN ACT relating to the financing of medical care.

HB 279, by Representative Gray: AN ACT relating to public health taxing districts.

HB 280, by Representative Adkins: AN ACT relating to skills training investment credits for workforce training.

HB 281, by Representative Simpson: AN ACT relating to domestic violence.

HB 282, by Representatives Lee and Moberly: AN ACT relating to petroleum underground storage tanks.

HB 283, by Representative Gooch: AN ACT proposing an amendment to Section 36 of the Constitution of Kentucky relating to legislative sessions.

HB 284, by Representative Stumbo: AN ACT relating to reorganization of the Department of Law.

HR 39, by Representative Moberly: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John E. Barrows.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 258**

Appropriations and Revenue: **HJR 34, HJR 35, HJR 36**

Banking and Insurance: **HB 267**

Education: **HB 257, HB 266**

Elections and Constitutional Amendments: **HB 259**

Health and Welfare: **HB 255, HB 260, HB 262**

Judiciary: **HB 268, HB 269**

Licensing and Occupations: **HB 256, HB 263**

State Government: **HB 261**

Transportation: **HB 264, HB 265**

Report of Committees

The Committee on Counties and Special Districts reported **HB 52**, with Committee Substitute attached thereto, and **HB 56** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to the Kentucky Law Enforcement Foundation Program fund and the Firefighter's Foundation Program fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties, ***or county sheriff's office*** of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government***, a sheriff, or full-time deputy sheriff appointed pursuant to KRS 70.030 and 64.345 or to KRS 70.030 and 64.530,*** who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any ***special***~~[elected officer, sheriff,]~~ deputy sheriff ***appointed pursuant to KRS 70.045***, ***any*** constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

Section 2. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer a minimum annual salary of four thousand three hundred fifty dollars ($4,350);

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection***, and all sheriffs serving in office on the effective date of this Act and all deputy sheriffs employed prior to the effective date of this Act shall also be deemed to have met the requirements of this subsection***;

(4) Requires all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, ***or sheriffs and their deputies,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, ***or sheriff's office,*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department ***or sheriff's office*** actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department ***or sheriff's office*** has substantially complied with subsections (6) and (7) of this section***, except each sheriff or deputy who is eligible for participation, and whose office meets the criteria of this section, shall be allowed to receive his share of the fund regardless of the participation of any other member of that sheriff's office***.

Section 3. KRS 15.460 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local unit of government shall be entitled to receive annually a supplement of ***three***[~~two~~] thousand[~~ five hundred~~] dollars ***($3,000)***[~~($2,500)~~] for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Constitution of Kentucky, and KRS 64.527 shall not receive the supplement;

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall, upon final settlement with the fiscal court pursuant to KRS 134.310, receive that portion of the supplement which will bring his compensation up to the maximum salary. The expense allowance provided by KRS 70.170 shall not be considered in computing the maximum salary;

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement, prepared pursuant to KRS 134.310, to the fund. The fund shall be reimbursed by the sheriff if an audit of the final settlement, conducted pursuant to KRS 134.310, reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years; and

(d) The sheriff shall designate who administers his payroll to the administrator of the fund. The administrator of the fund shall disburse the supplement to that designee for distribution to the qualified deputies. Each deputy

to whom a payment is due shall receive that payment as a salary supplement. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies for participation in the fund.

Section 4. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of ***three***[~~two~~] thousand[~~ five hundred~~] dollars ***($3,000)***[~~($2,500)~~] for each qualified professional firefighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary.

Section 5. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Human Resources, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot ***seven***[~~five~~] thousand ***five hundred*** dollars ***($7,500)***[~~($5,000)~~] annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to ***purchase*** workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and

Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission

may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 6. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June, and September thereafter, the cabinet shall request in writing of the administrator of the Firefighters Foundation Program fund, which is established by KRS 95A.220, and of the administrator of the Law Enforcement Foundation Program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the cabinet shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.

(2) On or before the first day of each quarter, the cabinet shall certify to the State Treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the State Treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in KRS 136.392.

(3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency account, and in the Law Enforcement Foundation Program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the Firefighters Foundation Program fund's trust and agency account and all earnings from investments made from moneys in this account in excess of ***three***[~~one~~] million dollars ***$3,000,000***[~~($1,000,000), beginning with fiscal year 1994-95,~~] shall lapse, except that moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. All moneys remaining on deposit at the close of the state's fiscal year in the Law Enforcement Foundation Program fund's trust and agency account, and all earnings from investments made from moneys in this account, in excess of ***three***[~~one~~] million dollars ***($3,000,000***[~~($1,000,000), beginning with fiscal year 1994-95,~~] shall lapse.

(4) The cabinet shall provide monthly financial reports to the administrator of the Firefighters Foundation Program fund and the administrator of the Law Enforcement Foundation Program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

The Committee Substitute to **HB 52** is as follows:

AN ACT relating to the Kentucky Law Enforcement Foundation Program fund and the Firefighter's Foundation Program fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county,[~~ or any~~] combination of cities and counties, ***state or public university, or county sheriff's office*** of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government***, sheriff, or full-time deputy sheriff appointed pursuant to KRS 70.030, or state or public university police officer*** who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any ***sheriff who earns the maximum constitutional salary for his office, any special***[~~elected officer, sheriff,~~] deputy sheriff ***appointed pursuant to KRS 70.045***, ***any*** constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 2. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer ***at least the***[~~a~~] minimum ***federal wage***[~~annual salary of four thousand three hundred fifty dollars~~

[~~($4,350)~~];

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972***, and for all sheriffs appointed or elected on or after the effective date of this Act, and all deputy sheriffs, and state or public university police officers employed after the effective date of this Act***; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection***, and that all sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to the effective date of this Act shall be deemed to have met the requirements of this subsection***;

(4) Requires all police officers employed on or after July 1, 1972, ***and all sheriffs appointed or elected on or after the effective date of this Act, and deputy sheriffs, and state or public university police officers employed on or after the effective date of this Act*** to successfully complete a basic training course of at least four hundred (400) hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council***. All sheriffs serving in office on the effective date of this Act, all deputy sheriffs, and state or public university police, employed prior to the effective date of this Act shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than four hundred (400) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis***[~~; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection~~];

(5) Requires all police officers, whether originally employed before or after July 1, 1972, ***and all sheriffs appointed or elected after the effective date of this Act, and all deputy sheriffs, and state or public university police officers employed on or after the effective date of this Act,*** to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, ***state or public university police, or sheriffs and their deputies,*** including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, ***state or pubic university police department, or sheriff's office,*** issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department***, state or public university police department, or sheriff's office*** actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department***, state or public university police department, or sheriff's office*** has substantially complied with subsections (6) and (7) of this section.

Section 3. KRS 15.460 is amended to read as follows:

(1) Beginning ***the effective date of this Act***[~~July 1, 1982~~], an eligible local unit of government shall be entitled to receive annually a supplement of two thousand ***seven***[~~five~~] hundred ***fifty*** dollars ***($2,750)***[~~($2,500)~~] for each qualified police officer it employs***, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs***, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Constitution of Kentucky and KRS 64.527 shall not receive the supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky

Constitution and KRS 64.527, exclusive of the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court pursuant to KRS 134.310, receive that portion of the supplement that will not cause his compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement prepared pursuant to KRS 134.310 to the fund. The fund shall be reimbursed by the sheriff if an audit of the final settlement conducted pursuant to KRS 134.310 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his deputies for participation in the fund.

Section 4. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand ***seven***[~~five~~] hundred ***fifty*** dollars ***($2,750)***[~~($2,500)~~] for each qualified professional firefighter it employs, ***and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified professional firefighter it employs,*** plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his regular salary.

Section 5. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Human Resources, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot ***six***[~~five~~] thousand ***five hundred*** dollars ***($6,500)***[~~($5,000)~~] annually to each qualifying department***, and beginning on July 1 of 1999, the commission shall allot seven thousand five hundred dollars ($7,500) annually to each qualifying department***. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and

buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to ***purchase*** workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 6. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June, and September thereafter, the cabinet shall request in writing of the administrator of the Firefighters Foundation Program fund, which is established by KRS 95A.220, and of the administrator of the Law Enforcement Foundation Program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. Based on these projections, the cabinet shall determine the proportionate share of total insurance premium surcharge proceeds, prescribed in KRS 136.392, to accrue to each fund.

(2) On or before the first day of each quarter, the cabinet shall certify to the State Treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the State Treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in KRS 136.392.

(3) Moneys deposited in the Firefighters Foundation Program fund's trust and agency account, and in the Law Enforcement Foundation Program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the Firefighters Foundation Program fund's trust and agency account and all earnings from investments made from moneys in this account in excess of ***three***~~[one]~~ million dollars ***($3,000,000)***~~[($1,000,000)]~~, beginning with fiscal year 1994-95***, through June 30, 1999***, shall lapse, except that moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. All moneys remaining on deposit at the close of the state's fiscal year in the Law Enforcement Foundation Program fund's trust and agency account, and all earnings from investments made from moneys in this account, in excess of ***three***~~[one]~~ million dollars ***($3,000,000)***~~[($1,000,000)]~~, beginning with fiscal year 1994-95***, through June 30, 1999***, shall lapse. ***On and after July 1, 1999, moneys in these accounts shall not lapse.***

(4) The cabinet shall provide monthly financial reports to the administrator of the Firefighters Foundation Program fund and the administrator of the Law Enforcement Foundation Program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

Section 7. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, but, beginning with fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.***

Section 8. KRS 95A.220 is amended to read as follows:

(1) There is established the "Firefighters Foundation Program Fund" consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments and volunteer fire departments in accordance with the provisions of KRS 95A.200 to 95A.300 and KRS 95A.262.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account. Beginning with the fiscal year 1994-95***, through June 30, 1999***, moneys

remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.***

Section 9. KRS 136.392 is amended to read as follows:

(1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Revenue Cabinet, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars ($1,000) for each of the previous two (2) calendar years may report and remit to the Revenue Cabinet all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).

(b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the secretary of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the secretary of revenue to calculate an appropriate rate, the secretary for the Public Protection and Regulation Cabinet and the secretary for the Justice Cabinet shall certify to the secretary of revenue, no later than January 1, of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the secretary of revenue shall advise the commissioner of insurance of the new rate and the commissioner shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.

(2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.*** Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95***, through June 30, 1999***, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. ***On and after July 1, 1999, moneys in this account shall not lapse.***

(3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

HB 56, AN ACT relating to local air boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.132 is amended to read as follows:

(1) Any city or county, or city and county acting jointly, or any combination of two (2) or more cities***,***[~~ and/or~~] counties***, or both,*** may establish a nonpartisan air board composed of six (6) members, or any city other than the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members, or any existing six (6) member board, except a board established in an urban-county government, may be expanded to ten (10) members by joint action of the county and city.

(2) Any city of the first class, jointly with the county containing ***that***[~~such~~] city may establish a nonpartisan air board composed of ***eleven (11)***[~~ten (10)~~] members. If a joint air board has been established prior to July 15, 1986, by a city of the first class and the county, the terms of the members on ***the***[~~such~~] board shall terminate as of July 15, 1986, and the membership of the board shall be appointed in accordance with subsection (6) of this section.

(3) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(4) The members of an air board composed of six (6) members shall be appointed as follows:

(a) If the air board is established by a city, ***the***[~~such~~] members shall be appointed by the mayor of the city;

(b) If the air board is established by a county, ***the***[~~such~~] members shall be appointed by the county judge/executive except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board;

(c) If the air board is established as a joint city-county air board ***the***[~~such~~] members shall be appointed jointly by the mayor of the city and the county judge/executive;

(d) If a combination of cities***,***[~~ and/or~~] counties***, or both,*** establishes a joint air board, the mayors and[~~/or~~] county judges/executive involved shall jointly choose six (6) members, and shall jointly choose successors.

(5) The members of an air board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

(6) The members of an air board composed of ***eleven (11)***[~~ten (10)~~] members established jointly by a city of the first class and the county containing ***the first class***[~~such~~] city shall be composed of the mayor of the city of the first class and the county judge/executive of the county and ***nine (9)***[~~eight (8)~~] other members appointed as follows:

(a) Three (3) members shall be appointed by the mayor of the city of the first class;

(b) Three (3) members shall be appointed by the county judge/executive of the county, with the approval of the fiscal court; and

(c) ***Three (3)***[~~Two (2)~~] members, who shall be residents of ***the***[~~such~~] county containing a city of the first class or of counties contiguous thereto, ***one (1) of whom shall be a member of the board of directors of the Airport Neighbors Alliance, Inc.,*** shall be appointed by the Governor of the Commonwealth.

(7) Members of the board composed of six (6) members, shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(8) Members of the board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A, shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that the mayor and the county judge/executive shall each make their initial appointments so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years; except that if an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of these initial terms, successors shall be appointed for a term of four (4) years.

(9) Members of the board composed of ***eleven (11)***[~~ten (10)~~] members and established jointly by a city of the first class and the county containing a city of the first class, shall serve for a term of three (3) years each, and until their successors are appointed and qualified, except that the terms of the mayor and the county judge/executive shall be coextensive with

their terms of office. The mayor and the county judge/executive shall each make their initial appointments so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of these initial terms, successors shall be appointed for a term of four (4) years.

(10) Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of ***eleven (11)***[~~ten (10)~~] members and established jointly by a city of the first class and the county containing a city of the first class, shall choose a chairman and vice chairman who shall serve for terms of one (1) year. Where the board is composed of ***eleven (11)***[~~ten (10)~~] members, and established jointly by a city of the first class and the county containing a city of the first class, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost thereof shall be paid by the board.

(11) The board may employ necessary counsel, agents and employees to carry out its work and functions, and prescribe[~~ such~~] rules and regulations as it deems necessary.

(12) The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. He shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. ***The***[~~Such~~] books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. He shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

(13) In the event that a joint air board is created by cities***,***[~~ and/or~~] counties, ***or both,*** and thereafter a city[~~ or cities~~] or county ***desires***[~~or counties desire~~] to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. No[~~ such~~] withdrawing city or[~~ cities,~~] county[~~ or counties~~] shall be entitled to return of any moneys or property advanced ***to the***[~~such~~] board.

(14) A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members,[~~ and of~~] a ten (10) member board shall consist of six (6) members***, and an eleven (11) member board shall consist of six (6) members***. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

(15) A board member may be replaced by the appointing authority upon a showing to ***the***[~~such~~] authority of misconduct as a board member or upon conviction of a felony. No board member, except for the mayor of a city of the first class and the county judge/executive on a board made up of ***eleven (11)***[~~ten (10)~~] members and established jointly by a city of the first class and the county containing a city of the first class, shall hold any official office with the appointing authority.

Section 2. The Governor shall appoint the additional member to the Board as required under Section 1(6)(c) of this Act by September 1, 1998.

The Committee on Education reported **HB 2**, **HB 53**, with Committee Substitute and Committee Title Amendment attached thereto, **HB 86**, with Committee Substitute attached thereto, **HB 104** and **HB 185** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT relating to elementary and secondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

No school board, administrator, or teacher shall prohibit students from praying during noninstructional times when the prayer is voluntary and student-initiated.

HB 53, AN ACT relating to high school diplomas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a

pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) ***A local school board may posthumously award a diploma indicating graduation from high school to any deceased student at the same time it awards diplomas to the members of the class in which the student was expected to graduate.***

(4) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

The Committee Substitute to **HB 53** is as follows:

AN ACT relating to high school diplomas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) ***A local school board may posthumously award a diploma indicating graduation from high school to any deceased student at the same time it awards diplomas to the members of the class in which the student was expected to graduate.***

(4) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Section 2. Whereas there are school districts that wish to award diplomas to deceased students at the end of the current school year and no later than June 30, 1998, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Title Amendment to **HB 53** is as follows:

By amending the title to read as follows: "AN ACT relating to high school diplomas and declaring an emergency."

HB 86, AN ACT relating to parent and child education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.360 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall authorize ***the Department for Adult Education and Literacy to make*** grants to selected local ***educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family- literacy services to adults and families. The programs shall be known as Parent and Child Education for Family Independence programs***~~[school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents]~~.

(2) ***The programs shall:***

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services;

The programs may operate on a year round basis[~~Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills~~].

(3) ***Eligible participants shall be***[~~Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.~~

~~(4) Only~~] those parents who ***are sixteen (16)***[~~have a preschool child three (3)~~] years of age or older***,***[~~ who is~~] not enrolled in a ***regular secondary***[~~public~~] school program, and who do not possess a high school ***credential,***[~~diploma or its equivalent~~] or who ***have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8)***[~~test below an eleventh grade level shall be eligible~~].

(4)[~~(5)~~] ***Priority in the selection of***[~~Local education agencies shall be given first priority for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district. Selection for~~] grant awards shall be based on the ***county's low level of literacy in***[~~educational need of~~] the adult population, ***high numbers***[~~the incidence~~] of ***unemployed***[~~unemployment~~], and ***high levels of poverty***[~~the percentage of elementary school children eligible for free or reduced priced meals in the county or district. Priority shall also be given to local education agencies implementing family resource centers pursuant to KRS 156.497 and located in counties implementing the job opportunities and basic skills program as established by the federal Family Support Act of 1988~~].

(5) A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program[

~~(6) Each grant proposal shall include a plan for providing the following:~~

~~(a) Identification and recruitment of eligible participants;~~

~~(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;~~

~~(c) Transportation, lunch, and free general education development testing for program participants;~~

~~(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs;~~

~~(e) Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children;~~

~~(f) Coordination with family resource centers pursuant to KRS 156.497, preschool programs for children at risk of educational failure pursuant to KRS 157.3175, and preschool programs for children with disabilities pursuant to KRS 157.226; and~~

~~(g) Coordination with the job opportunities and basic skills program established pursuant to the federal Family Support Act of 1988.~~

~~(7) Local education agencies may blend this program with other programs if the grant proposal meets all criteria set out in subsection (6) and if funds from the blended programs are not allocated for duplicative services and enrollment numbers are not duplicated in the blended programs~~].

The Committee Substitute to **HB 86** is as follows:

AN ACT relating to parent and child education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.360 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall ***approve grants and*** authorize ***the Department for Adult Education and Literacy to disburse funds***[~~grants~~] to selected local ***educational agencies, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide model family-***

literacy services to adults and families. The programs shall be known as Parent and Child Education for Family Independence programs[~~school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents~~].

(2) ***The programs shall:***

(a) Provide parents with instruction in basic academic skills, life skills which include parenting skills, and employability skills;

(b) Provide the children with developmentally appropriate educational activities;

(c) Provide planned high-quality educational experiences requiring interaction between parents and their children;

(d) Be of sufficient intensity and duration to help move families to self-sufficiency and break the cycle of undereducation and poverty; and

(e) Be designed to reduce duplication with other educational providers to ensure high quality and efficient services;

The programs may operate on a year round basis[~~Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills~~].

(3) ***Eligible participants shall be***[~~Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.~~

~~(4) Only~~] those parents who ***are sixteen (16)***[~~have a preschool child three (3)~~] years of age or older***,***[~~ who is~~] not enrolled in a ***regular secondary***[~~public~~] school program, and who do not possess a high school ***credential,***[~~diploma or its equivalent~~] or who ***have a high school credential but function below a twelfth grade level and their children, age zero (0) to eight (8) years***[~~test below an eleventh grade level shall be eligible~~].

(4)[~~(5)~~] ***Priority in the selection of***[~~Local education agencies shall be given first priority for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district. Selection for~~] grant awards shall be based on the ***county's low level of literacy in***[~~educational need of~~] the adult population, ***high numbers***[~~the incidence~~] of ***unemployed***[~~unemployment~~], and ***high levels of poverty***[~~the percentage of elementary school children eligible for free or reduced priced meals in the county or district. Priority shall also be given to local education agencies implementing family resource centers pursuant to KRS 156.497 and located in counties implementing the job opportunities and basic skills program as established by the federal Family Support Act of 1988~~].

(5) A minimum of five percent (5%) of the funds appropriated to support the Parent and Child Education for Family Independence statewide effort shall be retained by the Department for Adult Education and Literacy to provide a statewide professional staff development program[

~~(6) Each grant proposal shall include a plan for providing the following:~~

~~(a) Identification and recruitment of eligible participants;~~

~~(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;~~

~~(c) Transportation, lunch, and free general education development testing for program participants;~~

~~(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs;~~

~~(e) Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children;~~

~~(f) Coordination with family resource centers pursuant to KRS 156.497, preschool programs for children at risk of educational failure pursuant to KRS 157.3175, and preschool programs for children with disabilities pursuant to KRS 157.226; and~~

~~(g) Coordination with the job opportunities and basic skills program established pursuant to the federal Family Support Act of 1988.~~

~~(7) Local education agencies may blend this program with other programs if the grant proposal meets all criteria set out in subsection (6) and if funds from the blended programs are not allocated for duplicative services and enrollment numbers are not duplicated in the blended programs~~].

HB 104, AN ACT relating to school district superintendents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.350 is amended to read as follows:

(1) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months.[~~The person appointed to serve as acting superintendent shall not be an applicant for, nor be appointed to, the position of superintendent.~~] If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(2) Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a Kentucky distinguished educator pursuant to KRS 158.6455 and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request.

HB 185, AN ACT relating to student activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.153 is amended to read as follows:

(1) Unless the action is taken pursuant to KRS 158.150, no school, school administrator, teacher, or other school employee shall expel or punish a child based on information contained in a record of an adjudication of delinquency or conviction of an offense received by the school pursuant to KRS 610.345 or from any other source. Nothing in this subsection shall be construed to prohibit a local school board or school official from instituting disciplinary proceedings against any student for violating the discipline policy of the school or school district or taking actions necessary to protect staff and students. Actions to protect staff and students may be taken only after the principal makes a determination that the conduct of the student reflected in the records of the school or obtained by the school from the court indicates a substantial likelihood of an immediate and continuing threat that the student will cause harm to students or staff, and that the restrictions to be ordered represent the least restrictive alternative available and appropriate to remedy the threat, and that the determination and supporting material be documented in the child's record. The action of the principal, in addition to or in lieu of any other procedure available, may be appealed by the child or the child's parent or guardian to the superintendent of the school system or to the Circuit Court in the county in which the school is located, and the appealing party may be represented by counsel.

(2) No school, school administrator, teacher, or other school employee who has custody of records received or maintained by the school pursuant to KRS 610.345 or who has received information contained in or relating to a record received by the school pursuant to KRS 610.345 shall disclose the fact of the record's existence, or any information contained in the record or received from the record to any other person, including but not limited to other teachers, school employees, pupils, or parents other than the pupil, or parents of the pupil who is the subject of the record.

(3) The child and his parent or guardian shall have a civil cause of action against the school board and against any school administrator violating subsection (1) or (2) of this section or divulging information in violation of KRS 610.345 or 610.340. This civil cause of action shall be in addition to any other criminal or administrative remedy provided by law.

(4) Nothing in this section shall be construed to prohibit a local board of education from establishing district-wide standards of behavior for students who participate in extracurricular and cocurricular activities, including athletics. A school principal may deny or terminate a student's eligibility to participate in extracurricular or cocurricular activities if the student has violated the local district behavior standards or the council's criteria for participation, as described in KRS 160.345(2)(i)8. A student's right to participate in extracurricular or cocurricular activities, including athletics may be suspended, pending investigation of an allegation that the standards of behavior have been violated.

The Committee on Elections and Constitutional Amendments reported **HB 6**, **HB 63**, with Committee Amendment No. 1 attached thereto, **HB 173**, and **HB 167** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT relating to voting and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.035 is amended to read as follows:

(1) The polls shall be opened ***on the day of a primary, runoff primary, special election, or regular election*** at 6 a.m., prevailing time, and ***shall*** remain open~~[continuously]~~ until ***each***~~[6 p.m., prevailing time. Any]~~ voter who is waiting in line at the polls ***at 6 p.m., prevailing time, has voted. At 6 p.m., prevailing time, if voters are waiting at the polls to vote, the precinct election sheriff shall announce that a voter wishing to vote must immediately get in line. When all voters waiting at the polls at that time are in line, the precinct election sheriff shall then determine which voter is the last in line, and that voter shall be the last voter permitted to vote. The precinct election sheriff shall wait in line with the last voter who shall be permitted to vote until that voter has voted and shall inform a voter who subsequently arrives at the polls that no one shall be permitted to vote after the last voter in line at 6 p.m., prevailing time. After the last voter waiting in line at 6 p.m., prevailing time, has voted, the polls shall then be closed***~~[to cast his vote at closing time, and who has been unable to cast his vote before closing time because of the large numbers of voters casting their votes, shall be allowed to cast his vote as soon after closing time as practicable; provided, however, that no vote shall be cast after 7 p.m. No voter who arrives at the polls after 6 p.m., prevailing time, shall be allowed to cast his vote]~~.

(2) As provided in Section 148 of the Constitution of Kentucky, any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute an absentee ballot, be entitled to absent himself from any services or employment in which he is then engaged or employed for a reasonable time, but not less than four (4) hours on the day he appears before the clerk to request an application for or to execute an absentee ballot, during normal business hours of the office of the clerk or to cast his ballot on the day of the election between the time of opening and closing the polls. The employer may specify the hours during which an employee may absent himself.

(3) No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote, under circumstances which did not prohibit him from voting, may be subject to disciplinary action.

(4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. The person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

Section 2. Whereas the date of the next political party primary precedes the normal effective date for legislation enacted during this regular session, and whereas some voters in that primary may be disenfranchised without the change in the time for closing the polls as prescribed in this Act being applied to that primary, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 63, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in

the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal

loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) ***Subject to the provisions of subsection (20) of this section,*** no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) ***Subject to the provisions of subsection (20) of this section,*** no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) ***Subject to the provisions of subsection (20) of this section,*** no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) ***Subject to the provisions of subsection (20) of this section,*** no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) ***A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with Section 3 of this Act.***

(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(22)[~~(21)~~] No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(23)[~~(22)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(24)[~~(23)~~] In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(25)[~~(24)~~] No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(26)[~~(25)~~] (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than ***sixty (60)***[~~twenty (20)~~] days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than ***sixty (60)***[~~twenty (20)~~] days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(27)[~~(26)~~] No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 2. KRS 121.170 is amended to read as follows:

(1) Any committee, except a federally-registered out-of-state permanent committee, organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127. No entity which is excluded from the definition of "campaign committee" established in KRS 121.015(3)(a) shall be required to register as a committee with the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) and KRS 121A.020(5).

(3) All provisions of KRS 121.160 and 121A.070 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered out-of-state permanent committee, and a person acting as a campaign fundraiser. ***In case of the death, resignation, or removal of a campaign treasurer for a permanent committee or executive committee, the chairman of the permanent committee or executive committee shall, within three (3) days after receiving notice of the vacancy by certified mail, appoint a successor as treasurer for the committee and file the name and address of the successor with the registry. The chairman of the permanent committee or executive committee shall be accountable as the treasurer for the committee if the chairman fails to meet this filing requirement.***

(4) The chairman of a committee and the campaign treasurer shall be separate persons.

(5) Any federally-registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(6) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. sec. 441b, 11 C.F.R. sec. 104.10, 11 C.F.R. sec. 106.6, and 11 C.F.R. sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

(7) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be

prohibited.

Section 3. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial

exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) ***A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than the date of the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than the date of the regular or special election.***

(k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(l)[~~(k)~~] 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b),[~~ or~~] (e)***, or (j)*** of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b),[~~ or~~] (e)***, or (j)*** of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) ***(a)*** State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

1.[~~(a)~~] For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2.[~~(b)~~] For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

3.[~~(c)~~] The total amount of cash contributions received during the reporting period; and

4.[~~(d)~~] A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) This report shall be ***in the hands of the registry or postmarked within five (5) days after the thirtieth day following***[~~made to the registry within thirty (30) days after~~] the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be ***in the hands of the registry or postmarked within five (5) days after the thirtieth day following***[~~submitted within thirty (30) days after~~] each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates,

committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;

2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and

4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser. All information shall be reported to the registry on the thirtieth day preceding and the thirtieth day following the primary and regular elections subsequent to the date that the broadcasting or printing of the advertisement occurs. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor. Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

Section 4. KRS 121A.060 is amended to read as follows:

(1) The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5). A qualifying slate which discovers that it has received qualifying contributions in excess of the maximum threshold qualifying amount shall, without penalty, dispose of qualifying

contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors. The excess contributions returned to the contributors shall not be considered as qualifying contributions and shall not be matched by transfers from the fund. ***After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers,*** the threshold qualifying amounts shall be increased or decreased ***accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The***[~~in accordance with the consumer price index for all urban workers, and the~~] registry shall make ***the adjustments in the threshold qualifying amounts***[~~that adjustment~~] in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(2) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(3) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and

(d) Any other information reasonably necessary that is required by the registry.

(4) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.

(5) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) working days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(6) A separate determination and certification shall be made for a primary and a regular election.

(7) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(8) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(9) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(10) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(11) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(12) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(13) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, qualifying slates may independently qualify for subsequent transfers in that election without regard to the ability of another qualifying slate in that election to qualify for subsequent transfers in that election.

The Committee Amendment No. 1 to **HB 63** is as follows:

On Page 14, line 25, by deleting "***the date of***" and inserting in lieu thereof "***fifteen (15) days after the filing deadline for***"; and

On Page 15, line 6, by deleting "***the date of***" and inserting in lieu thereof "***fifteen (15) days after the filing deadline for***".

HB 173, AN ACT relating to campaign finance reporting requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(k) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), or (e) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), or (e) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money,

loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) The total amount of cash contributions received during the reporting period; and

(d) A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;

2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and

4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) ***(a)*** No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot.

(b) Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(c) A candidate who has an unexpended and unobligated balance of funds in an existing campaign account who changes political party affiliations shall not use the unexpended funds in a campaign for nomination or election to the same office for which the campaign account was established but shall dispose of the unexpended and unobligated funds that were in the existing campaign account on the date of the change in political party affiliation according to the other options provided in paragraph (b) of this subsection, except that the political party of which the candidate was a member prior to his change of political party affiliations, not the candidate's new political party, shall be the recipient of any campaign funds transferred to a state or county political party executive committee.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser. All information shall be reported to the registry on the thirtieth day preceding and the thirtieth day following the primary and regular elections subsequent to the date that the broadcasting or printing of the advertisement occurs. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor. Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

HB 167, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, ***independent expenditures committee,*** political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

(d) An executive committee of a political party;[~~ and~~]

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office; ***and***

(f) "Independent expenditures committee," which means two (2) or more persons who receive contributions in excess of one thousand dollars ($1,000) with which to make independent expenditures in support of or opposition to one (1) or more candidates or slates of candidates, which may function on a regular basis throughout the year without being limited to the span of any election period;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

  (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;

  (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

  (c) An independent expenditure by any individual***, independent expenditures committee,*** or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents; and

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 2. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any

contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee,~~[political issues committee,]~~ nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee,~~[political issues committee,]~~ nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election.

(14) No candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) No slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) No candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) No candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) ***The provisions of subsections (14) to (17) of this section shall not apply to post-election contributions made to an independent expenditures committee. Any person may contribute at any time for expenses of an independent expenditures committee.***

(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000).

(22)[~~(21)~~] No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(23)[~~(22)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(24)[~~(23)~~] In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(25)[~~(24)~~] No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(26)[~~(25)~~] (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than twenty (20) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than twenty (20) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(27)[~~(26)~~] No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 3. KRS 121.175 is amended to read as follows:

(1) No candidate, ***slate of candidates, or campaign*** committee[~~, or contributing organization~~] shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures. "Allowable campaign expenditures" means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate,[~~ constitutional amendment, or public question which will appear on the ballot~~] and includes, but is not limited to, expenditures for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign. "Allowable campaign expenditures" does not include expenditures of funds in a campaign account for any purpose made unlawful by other provisions of the Kentucky Revised Statutes or which would bestow a private pecuniary benefit, except for payment of the reasonable value of goods and services provided upon a candidate, member of the candidate's family, ***or campaign*** committee,[~~ or contributing organization,~~] or any of their employees, paid or unpaid, including: tickets to an event which is unrelated to a political campaign or candidacy; items of personal property for distribution to prospective voters except items bearing the name,

likeness, or logo of a candidate or a campaign-related communication; expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and equipment or appliances the primary use of which is for purposes outside of the campaign. The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his campaign account. A member of the General Assembly may utilize funds in his campaign account to purchase admission tickets for political party functions, to purchase items with a value of not in excess of one hundred dollars ($100) for donation to a political party for auctions and fundraisers, and to participate in or support other events sponsored by a political party. A member of the General Assembly may make allowable campaign expenditures in both election years and nonelection years.

(2) By December 31, 1993, the registry shall promulgate administrative regulations to implement and enforce the provisions of subsection (1).

(3) In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:

(a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000); and

(b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000).

Section 4. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (k)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(k) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), or (e) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), or (e) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) The total amount of cash contributions received during the reporting period; and

(d) A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

4. The total amount of cash contributions received during the reporting period; and

5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;

2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and

4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, ***independent expenditures committee,*** or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more

than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser. All information shall be reported to the registry on the thirtieth day preceding and the thirtieth day following the primary and regular elections subsequent to the date that the broadcasting or printing of the advertisement occurs. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor. ***A slate of candidates or campaign committee shall require each organization with which it contracts for advertising services or material to comply with the applicable requirements of KRS Chapters 121 and 121A, regardless of whether the organization is based in this or some other state.*** Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

(12) An independent expenditures committee shall report information concerning contributions received and

expenditures made by the committee to the registry within ten (10) days after receiving more than one thousand dollars ($1,000) in contributions and on the first day of each succeeding month on forms provided by the registry.

Section 5. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary or runoff primary election ballot, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee***,***[~~ or~~] party executive committee, ***exploratory committee, or independent expenditures committee*** which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties and which functions on a regular basis throughout the year;

(d) An executive committee of a political party;[~~ and~~]

(e) "Exploratory committee," which means a committee formed by one (1) or more persons which is registered pursuant to KRS 121.170 to accept contributions and make expenditures for the purpose of determining the feasibility of forming a slate of candidates for Governor and Lieutenant Governor or of determining the composition of a slate of candidates for Governor and Lieutenant Governor; ***and***

(f) "Independent expenditures committee," which means two (2) or more persons who receive contributions in excess of one thousand dollars ($1,000) with which to make independent expenditures in support of or opposition to one (1) or more candidate or slate of candidates, which may function on a regular basis throughout the year without being limited to the span of any election period;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services, if the person furnishing the goods, advertising, or services paid another person for their provision; or

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization, if the person making the payment paid another person for their utilization.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300);

3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

4. An independent expenditure by any individual***, independent expenditures committee,*** or permanent committee;

(12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and

(13) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them.

Section 6. KRS 121A.050 is amended to read as follows:

(1) A slate of candidates shall not knowingly accept a contribution from a natural person, permanent committee, state or county executive committee of a political party, or contributing organization of more than one thousand dollars ($1,000) in any one (1) election. Except for independent expenditures, no natural person, permanent committee, state or county executive committee of a political party, or contributing organization shall knowingly make a contribution of more than one thousand dollars ($1,000) in any one (1) election to a slate of candidates.

(2) No slate of candidates shall knowingly accept any cash contribution from a natural person, permanent committee, state or county executive committee of a political party, or contributing organization. No natural person, permanent committee, state or county executive committee of a political party, or contributing organization shall knowingly make a cash contribution to a slate of candidates.

(3) A group of individuals which shares the cost associated with the purchase of or payment for goods or services for the benefit of a slate of candidates or advertising which expressly advocates the election or defeat of a slate of candidates shall report to the registry as a contributing organization as required by KRS 121A.010(10) and shall be bound by the contribution limit established by subsection (1) of this section. This subsection shall not be construed to restrict the right of an individual to make a legitimate independent expenditure as defined ***in subsection (13) of Section 5 of this Act***[~~by KRS 121.150(1)~~].

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 243, HB 158, HB 160**

Calendar

HB 170, HB 198, HB 199, HB 131, HB 145, HB 156, HB 132, HB 154, HJR 2, and **HCR 3** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 131, HB 132, HB 145, HB 154, HB 156, HB 170, HB 198, HB 199, HJR 2,** and **HCR 3** have been posted for passage in the Orders of the Day for January 15, 1998.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following **HR 37**:

HB 37, A RESOLUTION adopting Rules of Procedure for the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Rules of Procedure for the House of Representatives for the 1998 Regular Session of the Kentucky General Assembly shall be as follows:

Rule 1. **Hours of Meeting.** The House shall meet at times set by the Committee on Committees.

Rule 2. **Quorum.** A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. **Call of the House.** Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. **Order of Business.** The order of business shall be as follows:

1. Invocation.
2. Pledge of Allegiance.
3. Roll Call.
4. Reading and Approval of the Journal.
5. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
6. Report of Reference of Bills to Committees.
7. Report of Committees.
8. First Reading of Bills.
9. Second Reading of Bills.
10. Orders of the Day.
11. Motions, Petitions and Communications.
12. Announcements.
13. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. **Unfinished Business.** Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. **Reading of Motions.** When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. **Withdrawal of Motions.** Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. **Order of Questions.** All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. **Precedence of Motions.** When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. **Motion to Adjourn.** A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. **Motion to Table.** The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. **Previous Question.** ***The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question***[~~When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order~~]. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments ***that have been called and are in order***[~~aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question~~]. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. **Motion to Set the Limits on Debate.** A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. **Motion to Reconsider.** A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question, nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. **Motion to Lay on Clerk's Desk.** The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. **Motion to Strike Out Enacting Clause.** A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. **Motion to Separate Part of a Measure.** A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. **Postponement of Measure.** When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. **Reading of Pending Papers.** Any pending bill, resolution, motion or report shall be read~~[by the Clerk]~~ upon the ***request***~~[demand]~~ of any member, ***with the concurrence of a majority of the members elected to the House,*** but it shall not again be read on the same day unless so ordered by the House.

Rule 20. **Nominations.** In all elections a previous nomination shall be made.

MEMBERS

Rule 21. **Attendance of Members.** No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. **Decorum of Members.** No member shall designate another member by name.

Rule 22A. **Point of Personal Privilege.** ***To be in order, a point of personal privilege must relate to allegations regarding the rights, reputation, or conduct of a member personally, in his or her capacity as a representative, that, if true, would incapacitate them for membership. Members who have the floor after claiming a point of personal privilege shall confine themselves to defending their own rights, reputations, or conduct, and not those of other members. Members wishing to make general comments about pending legislation, media coverage, or other matters that would be out of order if raised as a point of personal privilege shall use Motions, Petitions, and Communications.***

Rule 23. **Call to Order.** If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. **Debate.** No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. **Members Shall Vote at Seats.** A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. **Duties of Speaker.** The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. **Appeal from Decision of Chair.** The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the

Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the House shall be appointed by election during the organizational and regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the

House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. **Standing Committees.** The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Cities
5. Counties and Special Districts
6. Economic Development
7. Education
8. Elections and Constitutional Amendments
9. Health and Welfare
10. Judiciary
11. Labor and Industry
12. Licensing and Occupations
13. Natural Resources and Environment
14. State Government
15. Tourism Development and Energy
16. Transportation

Rule 39. **Appointment of Committees.** The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. In making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chairman in the preceding regular session must select for reappointment the committee he so chaired if he wishes to be considered for the chairmanship of that committee; if another selection is made, he shall not be reappointed chairman of the committee which he chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chairman of a standing committee. A chairman of a standing committee or statutory committee shall not serve as a member of the Committee on Appropriations and Revenue. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than twenty-nine members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. **Jurisdiction of Standing Committees.** The Committee on Committees shall refer each bill to the

Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Small Business:** matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking; banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Cities:** matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

5. **Counties and Special Districts:** matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employees; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk; county employees' civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; water districts; fire protection districts; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

6. **Economic Development:** matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

7. **Education:** matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. **Elections and Constitutional Amendments:** matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absentee ballots.

9. **Health and Welfare:** matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; garbage and refuse disposal; public assistance; child welfare; adoptions; mothers aid and assistance to children; children's homes; incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; sanitation districts; frozen food locker plants;

alcoholism; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists, ophthalmic dispensers; physical therapists.

10. **Judiciary:** matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, Circuit Courts and District Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; commissioners and receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional penitentiaries; civil rights; and juvenile matters.

11. **Labor and Industry:** matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

12. **Licensing and Occupations:** matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; warehouses and warehousemen; partnerships; trade practices.

13. **Natural Resources and Environment:** matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts and local flood control and water usage; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

14. **State Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; Department of Law; Secretary of State; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

15. **Tourism Development and Energy:** matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism Cabinet; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development, including synfuels; energy waste disposal; Utility Regulatory Commission and Energy Regulatory Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol. Subcommittees of the Committee on Tourism Development and Energy shall include but not be limited to the Subcommittee on Tourism and the Subcommittee on Energy.

16. **Transportation:** matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Department of Transportation; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. **Rules Committee.** There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee; provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. **Liaison Subcommittees:** The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance, and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee, and three members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chairman of such committee. A member of the Committee on Appropriations and Revenue may, however, serve on no more than one standing subcommittee. The chairman of each standing subcommittee shall be appointed by the chairman of the Committee on Appropriations and Revenue from the membership of such committee on the particular standing subcommittee.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before a standing subcommittee.

The Committee on Committees may assign the chairman of a standing committee as an ex officio non-voting member of a standing subcommittee.

Rule 42A. **Budget Review.** The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. **Enrollment Committee.** The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 44. **[~~Committee on~~]Conference Committees.** When a House bill has been amended in the Senate and the

House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a ***Conference*** Committee[~~ on Conference~~] to meet a like committee from the Senate. The ***Conference*** Committee[~~ on Conference~~] shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a ***conference*** committee[~~ on conference~~] report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a ***free conference*** committee[~~ on free conference~~], consisting of three or more members. A ***free conference*** committee[~~ on free conference~~] shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

A conference committee or free conference committee report shall be signed by a majority from each house or it shall not be in order.

Where both majority and minority conference or free conference reports are submitted, a motion to adopt the majority report shall first be considered and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails. Once the majority or minority report is adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the House of Representatives shall consist of all House members of majority party affiliation. The Minority Caucus of the House of Representatives shall consist of all House members of minority party affiliation. The majority and minority caucuses of the House of Representatives shall be committees, other than standing committees, of the House of Representatives and General Assembly.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the ***Enrollment*** Committee[~~ on Enrollment~~] and a ***Conference*** Committee[~~ on Conference~~] between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and ***Enrollment*** Committee[~~ on Enrollment~~] may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Standing and Special Committee[~~Majority and Minority~~] Reports. It shall require a majority of the committee membership to report a bill. The chairman shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chairman may sign reports on behalf of a majority of the committee members. His signature shall attest to the action of a majority, but shall not be construed as his personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read. ***Where both majority and minority reports are***

submitted, a motion to adopt the majority report shall first be considered, and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails.

Rule 48. **Discharge Petition**[~~Failure to Report~~]. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may ***sponsor and file***[~~by filing~~] with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of ***the***[~~said~~] request. If a majority of the members elected to the House concur[~~ therein~~], the bill shall be considered as though it had been regularly reported***, and sent to the Rules Committee***.

Rule 49. **Procedure in Committee.** The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted, unless the measure is one which has been recommitted to the same committee from which it was previously reported with a favorable expression. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.

BILLS AND RESOLUTIONS

Rule 50. **Form of Bills.** All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the Press Club; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be omitted or eliminated with a single line so as not to render such words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes said sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each such section as it appears in the Kentucky Revised Statutes. The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. **Introduction of Bills.** ***A member may introduce*** bills and resolutions[~~ may be introduced~~] by filing them with the ***House***[~~Bill Introduction~~] Clerk ***on the floor or*** in ***the Clerk's***[~~ her~~] office at any time the same is open. ***The member filing the bill or resolution shall be the primary sponsor of the bill or resolution, and members may co-sponsor the bill or resolution only with the sponsor's permission and by filing the proper papers with the Clerk. A co-sponsor may withdraw co-sponsorship of the bill or resolution with or without the sponsor's permission by filing the proper papers with the Clerk.*** Bills and resolutions ***filed***[~~ introduced by filing them with the Bill Introduction Clerk~~] after the House has concluded ***the Introduction and Reading of New Bills***[~~Item 4~~], in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The ***House***[~~Bill Introduction~~] Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. **Fiscal Statement.** A sponsor of a bill which, if enacted, would affect the revenues or expenditures of state government generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments through the imposition of a local mandate; or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility. Any member proposing an amendment which relates to fiscal matters herein described may cause a fiscal statement to be prepared. A fiscal statement shall be considered a public document upon introduction of the bill or amendment for which it was prepared. The chairman of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to posting. The chairman or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill, or amendment thereof, prior to final committee action. Members may require, by majority vote, that a fiscal statement be attached to any bill or amendment on the Orders of the Day relating to fiscal matters herein described. In such instance, the fiscal statement shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 53. Analysis of Administrative Regulation Promulgation Authority. The sponsor of a bill which contains the authority for any agency, board, or political subdivision of state government to promulgate administrative regulations may at any time by request cause the staff of the Legislative Research Commission to prepare an analysis of such administrative regulation promulgation authority. The analysis shall include a summary of the measure, identification of governmental entities authorized to promulgate administrative regulations, and identification of subject matter for which administrative regulations may be promulgated. Any member proposing an amendment which relates to administrative regulation promulgation authority herein described may cause such an analysis to be prepared. An analysis shall be considered a public document upon introduction of the bill or amendment for which it was prepared. The chairman of the committee to which a bill has been referred may require that the analysis be attached to the bill prior to posting. The chairman or a majority of the committee to which a bill has been referred may require that the analysis be attached to the bill, or amendment thereof, prior to final committee action. Members may require, by majority vote, that an analysis be attached to any bill or amendment on the Orders of the Day relating to administrative regulation promulgation authority herein described. In such instance, the analysis shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 54. Retention of Administrative Regulation Promulgation Authority Analyses. The Director of the Legislative Research Commission shall cause analyses prepared pursuant to Rule 53 to be filed for informational purposes with the Administrative Regulations Compiler of the Legislative Research Commission.

Rule 55. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it shall be referred to the Rules Committee. In these instances, the Clerk shall distribute copies of the bill and its proposed amendment to each member of the Rules Committee. The Rules Committee may post these bills to the Orders of the Day for consideration of the amendment, and final passage, giving precedence to these bills over all other matters posted. When bills with amendments for concurrence are reached in the Orders of the Day, the Speaker shall first put the question of concurrence in the amendment, whereupon if such is favorable, the bill shall be put immediately upon its final passage. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 56. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 57. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 58. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 59. **Orders of the Day.** When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 60. **Final Passage.** When a House bill has been amended in the Senate and the House has concurred in the amendment, ***or a Senate bill has been amended in the House, but the Senate refuses to concur, and the House recedes from its amendment,*** the bill[~~as amended~~] shall immediately be placed upon its passage.

Rule 61. **Amendments to Bills.** All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. ***An amendment prepared for one member but signed by another shall be considered the amendment of the member signing the amendment.*** All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution[~~and unless it complies with Rule 52 relative to fiscal analysis~~]; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a bill under consideration containing the substantial text of the language of any other bill introduced during the session shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause such amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of any other bill introduced during the session, the Speaker shall rule thereon, subject to appeal to the House.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill.

A proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

A proposal to amend the Constitution of Kentucky shall be introduced as a bill, and no such proposal shall be in order if it is offered as an amendment to any bill.

If a proposed floor amendment to a branch budget bill will result, if adopted, in a loss of revenues or an increase in expenditures for a budget unit, the amendment shall specify by budget unit the source of funds that will offset the loss of revenues or specify the budget unit or other source of funds that will support the increased expenditures. If a budget unit or other source of funds is specified, the amendment shall include all necessary language to effect the changes.

Rule 62. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 63. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross said amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll such bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each are in the exact form as finally passed prior to such delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 64. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 65. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. ***A***[~~However,~~] simple ***resolution***[~~resolutions~~] expressing the will of the House ***shall upon its introduction be automatically referred to the Committee on Committees, which may refer it to the floor if it is honorary, benevolent, and does not direct further action; otherwise, it shall be referred to a standing committee. Simple resolutions referred to a standing committee***[~~and all resolutions recommending a study by an interim committee~~] may be considered for adoption ***only*** after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. ***No resolution shall be considered unless it shall have been distributed to all members.*** All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study. All resolutions recommending or requiring a study, or which recommend or create a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 66. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications***."***[~~," and without objection shall be adopted en bloc after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.~~]

A resolution shall not be accepted for introduction if offered in lieu of a legislative citation.

VOTING

Rule 67. Roll Call. Any member, with a second, may ***require***[~~demand~~] a roll call on any matter pending before the

House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 68. **Electrical Voting System.** When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 69. **Voting for Others Prohibited.** No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 70. **Pairing.** All pairs announced in the House shall be entered on the Journal.

Rule 71. **Adjournment Extended During Roll Call.** When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 72. **Persons Entitled to the Floor.** No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 73. **Restriction of lobbying and access to the House Chambers and office areas.** No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from such member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol and the third and fourth floors of the Capitol Annex.

Rule 74. **Restrictions.** No article, booklet, pamphlet or any other printed material shall be placed upon ***either*** the desk of ***a***[~~any~~] member ***on the House floor or in a member's office*** unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution ***of the material***[~~thereof~~] is clearly identified. All such articles, booklets, pamphlets or any other printed material shall conform to accepted public taste and shall contain no matter appealing to prurient interest or without redeeming social value.[~~ Such~~] Documents ***originating from the general public*** shall be delivered to the ***administrative offices of the Legislative Research Commission or the Clerk of the House***[~~message room~~] and shall upon direction of the Clerk***,*** after inspection, be placed ***on***[~~in~~] the members' ***desk in the Capitol Annex provided the following conditions are met:***

(1) Unless 100 copies are provided, each document should be individually addressed to each member expected to receive a copy;

(2) If several pages are provided, they should be securely fastened or placed in an envelope; and

(3) Sufficient copies of all material should be provided; staff will not make additional copies of material.

Documents that may be distributed by the Clerk in the House Chamber are restricted to official documents relating to pending legislation or the operation of the House, documents sent by a member identified on the face of the document or its attachments to any other member, or other documents as designated by the Speaker's Office[~~bin~~]. The Sergeant-at-Arms shall be charged with the duty of inspecting such material and seeing that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of such materials shall be referred to the Committee on Committees for resolution. Any material[~~ found so~~] distributed by unauthorized individuals shall be collected from the members' desks and treated as litter***, and any material submitted but not distributed that is unclaimed after one week will be discarded***.

RULES

Rule 75. **Mason's Manual.** In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 76. **Change of Rules.** The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 37 was adopted by a vote of Yeas 60, Nays 38 (See Wednesday, January 14, 1998 - Appendix). Representative Stumbo moved that the vote by which **HR 37** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 7 to the Committee Substitute to **HB 62**, by Representative Marzian:

On page 12, line 17, by deleting "***who***" at the end of the line; and

On page 12, line 18, by deleting "***shall be absent from the county on any election day***"; and

On page 13, line 19, by placing brackets around and striking through "absentee" and after "performed" by inserting "***prior to an election***"; and

On page 13, line 23, after "for" by inserting "***that***" and by placing brackets around and striking through "the absentee"; and

On page 13, line 26, after "for" by inserting "***that***" and by placing brackets around and striking through "the absentee"; and

On page 13, line 27, after "supervise" by inserting "***that***" and placing brackets around and striking through "the absentee"; and

On page 14, line 2, by placing brackets around and striking through "absentee" and after "performed" by inserting "***prior to an election***"; and

On page 16, line 6, by placing brackets around and striking through "shall be absent from the county on election day, but who"; and

On page 16, line 14, by placing brackets around and striking through "absentee"; and

On page 16, line 27, by placing brackets around and striking through "Absentee".

Floor Amendment No. 8 to the Committee Substitute to **HB 62**, by Representative Stumbo:

On page 29, between lines 18 and 19, by inserting the following:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) No person or committee shall accept or agree to accept, either directly or indirectly, from a candidate, slate of candidates, committee, contributing organization, or any person required to file reports pursuant to KRS 121.180 or from a person on behalf of a candidate, slate of candidates, committee, contributing organization, or person so required to file reports, anything of economic value, including any reimbursement of costs, for the purpose of transporting a voter or causing a voter to be transported in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of any motor vehicle being so used.

(2) No candidate, slate of candidates, committee, contributing organization, or person required to file reports pursuant to KRS 121.180, and no person on behalf of a candidate, slate of candidates, committee, contributing organization, or person so required to file reports, shall pay or agree to pay anything of economic value, including any reimbursement of costs, to any person or committee for the purpose of transporting a voter or causing a voter to be transported in a motor vehicle to a polling place for the purpose of voting in an election or to any place where absentee voting is being conducted for the purpose of voting absentee, or for driving or being in charge of a motor vehicle being so used.

(3) Whoever violates the provisions of subsection (1) or (2) of this section shall be assessed a civil fine of two thousand five hundred dollars ($2,500). For a second violation, or for any succeeding violation, the penalty shall be a civil fine of five thousand dollars ($5,000) for each violation.

(4) (a) The provisions of this section shall not be applicable to any person who gratuitously transports voters to the polls on election day or who gratuitously transports voters to vote absentee.

(b) The provisions of this section shall not prohibit paying or offering or agreeing to pay any bona fide bus, taxi, or transportation service, which holds a license or permit duly issued by the appropriate governmental entity and which regularly does business in the area, to transport a voter to vote or vote absentee, nor shall this section prohibit any such bus, taxi, or transportation service from accepting or agreeing to accept such a payment.

(5) The provisions of this section shall be applicable to payments made to persons for transporting voters to the polls only in counties in which a mass transit system is in operation.

Section 1. KRS 119.205 is amended to read as follows:

(1) Any person who makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(2) Any person who solicits, accepts, or receives any such expenditure as payment or consideration for his vote, or the withholding of his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(3) For purposes of this section, "expenditure" means any of the following when intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question:

(a) A payment, distribution, loan, advance, deposit, or gift of money or anything of value; or

(b) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a payment, distribution, loan, advance, deposit, or gift of money or anything of value.

"Expenditure," as used in this section, shall not include the distribution of materials bearing the name, likeness, or other identification of a candidate, political party, committee, or organization, or position on a public question and not intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question.

(4) ***Except for payments for transporting voters that are prohibited under Section 16 of this Act,*** any candidate or committee, or any person on his behalf, who pays any person, including campaign workers, for transporting voters to the polls on the day of the election, shall make all payments by check. All payments, regardless of amount, shall be reported to the Registry of Election Finance in the manner that the Registry shall provide by administrative regulation. Any person who knowingly violates any requirement of this subsection shall be guilty of a Class B misdemeanor.

(5) In addition to the above provisions, a person may be convicted of a violation of this section pursuant to KRS 502.020."; and

On page 29, line 19, by deleting "16" and inserting in lieu thereof "18"; and

On page 30, line 4, by deleting "17" and inserting in lieu thereof "19".

Floor Amendment No. 8 to the Committee Substitute to **HB 74**, by Representative Stewart:

On page 17, before line 11 and after line 12, by inserting the following:

"Section 9. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; ~~[and]~~

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800***; and***

(18) Motor vehicles registered to individuals that have been married for at least fifty (50) continuous years."; and

On page 17, line 12, by deleting "Section 9" and inserting in lieu thereof "Section 10"; and

On page 17, line 20, by deleting "Section 10" and inserting in lieu thereof "Section 11".

Floor Amendment No. 9 to the Committee Substitute to **HB 74**, by Representative Barrows:

On page 13, line 2, by deleting "***For a first offense,***"; and

On page 13, line 4, after the word "***be***" by inserting "***guilty of a Class D felony***" and deleting the rest of the line in its entirety; and

On page 13, by deleting lines 5 through 10 in their entirety;

On page 17, line 4, by deleting "***For a first offense,***"; and

On page 17, line 6, after the word "***be***" by inserting "***guilty of a Class D felony***" and deleting the rest of the line in its entirety; and

On page 17, by deleting lines 7 through 11 in their entirety.

Floor Amendment No. 10 to the Committee Substitute to **HB 74**, by Representative Anderson:

On page 17, after line 11 and before line 12, by inserting the following:

"Section 9. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress,

bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; ~~[and]~~

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800***; and***

(18) Motor vehicles registered to individuals who are employed or full-time students and whose income is one hundred fifty percent (150%) or less of the federal poverty level."; and

On page 17, line 12, by deleting "Section 9" and inserting in lieu thereof "Section 10"; and

On page 17, line 20, by deleting "Section 10" and inserting in lieu thereof "Section 11".

Floor Amendment No. 11 to the Committee Substitute to **HB** 74, by Representative Anderson:

On page 5, beginning with line 7 after "retail price" and ending with line 12 by bracketing and striking through the existing language and inserting the following:

"***means the total consideration given at the time of purchase or at a later date, including all equipment and accessories, standard and optional, from an automotive reference manual prescribed by the Revenue Cabinet, for any motor vehicle taken in trade, as attested to in a notarized affidavit signed by both the buyer and the seller. The signatures of the buyer and seller shall be individually notarized. Total consideration given shall not include:***

1. Any amount allowed as a trade-in allowance by the seller, if the amount allowed is disclosed in the notarized affidavit;

2. Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;

3 Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and

4. Any item not considered to be equipment or accessories.

If a notarized affidavit signed by both the buyer and seller is not available to establish the total consideration given for a motor vehicle, "retail price" shall be established by the Revenue Cabinet.".

Floor Amendment No. 12 to the Committee Substitute to **HB** 74, by Representative Anderson:

On page 17, after line 11 and before line 12, by inserting the following:

"Section 9. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or

unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles~~[qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale]~~;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) ~~[All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;~~

~~(16)~~]Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095; and

(16)[~~(17)~~] New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800."; and

On page 17, line 12, by deleting "Section 9" and inserting in lieu thereof "Section 10"; and

On page 17, line 20, by deleting "Section 10" and inserting in lieu thereof "Section 11".

Representative Stumbo moved that **HB 74** be recommitted to the Committee on Transportation. Agreed.

Orders of the Day

HB 27, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Floor Amendment No. 4 to **HB 27**. Agreed.

Representative Marcotte moved the adoption of Floor Amendment No. 5 to **HB 27**. Agreed.

Representative Bowling moved that **HB 27**, as amended, be passed.

Representative Heleringer moved the adoption of Floor Amendment No. 3 to **HB 27**. The Speaker Pro Tem assumed the Chair. The motion to adopt Floor Amendment No. 3 to **HB 27** was rejected. (See January 14, 1998 roll call on Floor Amendment No. 3 to **HB 27** - Appendix.) The Speaker resumed the Chair.

Representative Bowling moved that **HB 27**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 9 (See January 14, 1998 roll call on **HB 27** - Appendix.) **HB 27**, as amended, was passed and the title agreed to. Representative Bowling moved that the vote by which **HB 27**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended: **HB 2, HB 7, HB 10, HB 11, HB 14, HB 26, HB 27, HB 36, HB 41,** Representative Gray; **HB 2, HB 240, HB 52, HB 54, HB 58, HB 69, HB 111,** Representative Yonts; **HB 6**, Representative P. Clark; **HB 26**, Representatives Stine, P. Clark, Kerr, Marcotte; **HB 36**, Representatives Alexander, Siler; **HB 37**, Representatives Scott, Brandstetter, Jenkins, Palumbo, Stein; **HB 39**, Representative Gooch; **HB 52**, Representatives Adkins, Alexander; **HB 74**, Representative Reinhardt;

HB 106, Representatives D. Butler, Newsome; **HB 154**, Representative Moberly; **HB 185**, Representative Vincent; **HB 195**, Representative Turner; **HB 240**, Representatives Vincent, Gooch; **HB 243**, Representatives R. Adams; **HB 252**, Representative Vincent; **HCR 3**, Representative Gray; **HCR 14**, Representative Gooch.

Introduction of Bills and Resolutions (Continued)

HB 285, by Representative Coleman: AN ACT relating to emergency medical services.

HB 286, by Representatives Burch and Jenkins AN ACT relating to policemen's and firefighter's pension funds in cities of the first class..

HB 287, by Representatives A. Arnold, Bruce, Lee, and Allen: AN ACT relating to administrative regulations

HCR 40, by Representative Burch: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Licensing and Occupations to conduct a study of dentistry in Kentucky.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Counties and Special Districts: **HB 250**

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 154**, by Representative Lee:

On page 1, line 9, after the word "Commonwealth" by inserting the words "***and their spouses***".

Motions, Petitions and Communications (Continued)

Representative Riggs moved the adoption of the following **Legislative Citation No. 17**. Agreed.

We hereby commend the members of the U.S. Coast Guard Marine Safety Office for their dedicated, selfless and heroic efforts when the Belle of Louisville, a state historical treasure, began taking on water and nearly sank. Under the leadership of Commander Bill Wagner, guardsmen worked around the clock to help secure the boat. Inasmuch as their rapid response and assessment not only helped to calm the situation but also to prevent harmful fuel spills and pollution, the members of the U.S. Coast Guard have earned the respect and gratitude of the Commonwealth of Kentucky. This honorable body joins Representative Steve Riggs in recognizing these outstanding citizens for their invaluable service to the community. **Legislative Citation No. 17** was adopted without objection.

Representative Mason moved the adoption of the following **Legislative Citation No. 18**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to one of their own John Raymond Turner, former legislator, friend and colleague. Members of the House of Representatives do honor this distinguished Gentleman from Breathitt County who devotedly served his fellow citizens as Democratic county chairman, election commissioner, state Senator and state Representative. John Raymond Turner ably represented the interests of his constituents, sitting on a wide range of committees while serving as a member of both the Senate and the House of Representatives. And on this fourteenth day of January, the members of the Kentucky House of Representatives join Representative Paul Mason in expressing gratitude to John Raymond Turner for his contributions to this great Commonwealth and adjourns this day in honor of this well-respected colleague. **Legislative Citation No. 18** was adopted without objection.

Representative Marzian moved that **HB 191** be withdrawn. Agreed. Representative Coleman moved that **HB 262** be withdrawn. Agreed.

Announcements

The following meetings were announced:

Cities, will convene at 10:30 a.m. instead of 10:00 a.m.; Labor and Industry, 9:00 a.m., January 15, 1998; Agriculture and Small Business, 12 Noon, Room 129, January 15, 1998; Subcommittee on Veterans' Affairs, Press Conference, Governor's

Press Room, January 15, 1998, 10:00 a.m.; Minority Caucus, Room 113, 1:00 p.m., January 15, 1998; Transportation, 10:20 a.m., January 15, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 15, 1998.

On the roll call the vote was **Yeas 81**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Siler, Simpson, Sims, Stacy, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 4**--Crall, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

THURSDAY, JANUARY 15, 1998

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Dale Anderson, Grace Evangelical Free Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 14, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 288, by Representatives Collins and Siler: AN ACT relating to towing.

HB 289, by Representatives Wayne, L. Clark, Mason, Long, Hatcher, Brandstetter, Nunn, Lee, Colter, Siler, D. D. Butler, Riggs, DeWeese, Hoover, Jordan, Stacy, Burch, Adkins, Gee, Jenkins, Marzian, Horlander, Clarke, Palumbo, D. Butler, Riner, and P. Clark: AN ACT relating to the affordable housing trust fund.

HB 290, by Representative Simpson: AN ACT relating to criminal justice matters.

HB 291, by Representative Simpson: AN ACT proposing to amend Section 254 of the Constitution of Kentucky relating to control land support of convicts.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Cities: **HB 286**

Counties and Special Districts: **HB 279**

Economic Development: **HB 280**

Elections and Constitutional Amendments: **HB 283**

Health and Welfare: **HB 277, HB 278, HB 285**

Judiciary: **HB 270, HB 276, HB 281**

Licensing and Occupations: **HCR 40**

Natural Resources and Environment: **HB 282**

State Government: **HB 271, HB 272, HB 273, HB 274, HB 275, HB 284, HB 287**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 151, HB 190, HB 237**

Elections and Constitutional Amendments: **HB 197, HB 208, HB 217, HB 259**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 39**, with Committee Substitute attached thereto, **HB 58**, **HB 175**, and **HB 176** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to agriculture and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "tobacco grower" means any person who is a resident of Kentucky engaged in the production of growing tobacco or receives proceeds from the sale of tobacco in Kentucky for consumption or use. "Tobacco grower" as used in this section includes, but is not limited to, farm operator, owner/operator, cash tenant, landlord of a share tenant, share tenant, or share cropper.

(2) As used in this section, "warehouseman" means the owner, operator, manager, lessee, or proprietor of a warehouse engaged in selling tobacco, or his or her agents or employees.

SECTION 2. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

(1) Venue in a civil action against a tobacco grower for damages alleged as a result of use or consumption of tobacco products that may have been grown by that tobacco grower shall lie only in the county of residence of the tobacco grower.

(2) Venue in a civil action against a warehouseman for damages alleged as a result of use or consumption of tobacco products that may have been sold by that warehouseman shall lie only in the county in which the tobacco warehouse is located.

SECTION 3. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) In a civil action against a tobacco grower for damages alleged to have occurred as a result of use or consumption of tobacco products, in order for liability to be found against a tobacco grower, the plaintiff shall prove by clear and convincing evidence that the tobacco that caused the alleged damage was planted, cultivated, and harvested by that specific tobacco grower and not by any other person.

(2) In a civil action against a warehouseman for damages alleged to have occurred as a result of use or consumption of tobacco products, in order for liability to be found against a warehouseman, the plaintiff shall prove by clear and convincing evidence that the tobacco that caused the alleged damage was sold by that specific warehouseman and not by any other person.

(3) If a suit against a tobacco grower or a warehouseman is dismissed or the defendant prevails at trial, the defendant shall be entitled to three (3) times the entire costs of defending the action, including but not limited to legal fees, expert witnesses, and other expenses arising from the defense of the action.

Section 4. Whereas the threat of lawsuits against tobacco growers and warehousemen is ever present, and suits against cigarette manufactures and the tobacco industry have grown ever more common in recent years, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 39** is as follows:

AN ACT relating to agriculture and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "tobacco grower" means any person who is a resident of Kentucky engaged in the production of growing tobacco or receives proceeds from the sale of tobacco in Kentucky for consumption or use. "Tobacco grower" as used in this section includes, but is not limited to, farm operator, owner/operator, cash tenant, landlord of a share tenant, share tenant, or share cropper.

(2) As used in this section, "warehouseman" means the owner, operator, manager, lessee, or proprietor of a warehouse engaged in selling tobacco, or his or her agents or employees.

SECTION 2. A NEW SECTION OF KRS CHAPTER 452 IS CREATED TO READ AS FOLLOWS:

(1) Venue in a civil action against a tobacco grower for damages alleged as a result of use or consumption of tobacco products that may have been grown by that tobacco grower shall lie only in the county of residence of the tobacco grower.

(2) Venue in a civil action against a warehouseman for damages alleged as a result of use or consumption of tobacco products that may have been sold by that warehouseman shall lie only in the county in which the tobacco warehouse

is located.

SECTION 3. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) In a civil action against a tobacco grower for damages alleged to have occurred as a result of use or consumption of tobacco products, in order for liability to be found against a tobacco grower, the plaintiff shall prove by clear and convincing evidence that the tobacco that caused the alleged damage was planted, cultivated, and harvested by that specific tobacco grower and not by any other person.

(2) In a civil action against a warehouseman for damages alleged to have occurred as a result of use or consumption of tobacco products, in order for liability to be found against a warehouseman, the plaintiff shall prove by clear and convincing evidence that the tobacco that caused the alleged damage was sold by that specific warehouseman and not by any other person.

(3) If a suit against a tobacco grower or a warehouseman is dismissed or the defendant prevails at trial, the defendant may be entitled to three (3) times the entire costs of defending the action, including but not limited to legal fees, expert witnesses, and other expenses arising from the defense of the action.

Section 4. Whereas the threat of lawsuits against tobacco growers and warehousemen is ever present, and suits against cigarette manufactures and the tobacco industry have grown ever more common in recent years, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 58, AN ACT relating to sales tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used

specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities***;***[~~.~~]

(16) Gasoline, special fuels,[~~ and~~] liquefied petroleum gas***, and natural gas*** used to[~~ operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection~~]:

(a) ***Operate farm machinery as defined in subsection (11) of this section***[~~Gasoline" is defined as in KRS 138.210(4)~~];

(b) ***Operate farm grain or soybean drying facilities***[~~"Special fuels" is defined as in KRS 138.560(3)~~];

(c) ***Operate on-farm chicken or livestock facilities defined in subsection (15) of this section***[~~"Liquefied petroleum gas" is defined as in KRS 234.100(1)~~];[~~ and~~]

(d) ***Operate on-farm ratite facilities defined in subsection (24) of this section; or***

(e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section[~~"Agricultural purposes" is defined as in KRS 138.343(4)~~];

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; ***and***

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily

constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. The exemption provided in this subsection shall be effective for sales made through July 31, 2000; and

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; ***and***

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The exemption provided in this subsection shall be effective for sales made through July 31, 2000.

Section 2. The amendment contained in Section 1 of this Act shall apply retroactively to sales made on or after January 1, 1997.

HB 175, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.497 is amended to read as follows:

Notwithstanding any other provisions of this chapter, the taxes imposed herein do not apply to***:***

(1) Sales by elementary or secondary schools or nonprofit elementary or secondary school-sponsored clubs and organizations or any nonprofit, elementary, or secondary school affiliated groups such as parent-teacher organizations and booster clubs, whose membership may be composed of individuals other than students, provided the net proceeds from ***the***[~~such~~] sales are used solely for the benefit of the elementary or secondary school or its students.[~~ Such~~] Nontaxable sales shall include sales resulting from agreements or contracts entered into with resident or nonresident organizations to participate in fund-raising campaigns for a percentage of the gross receipts where students act as agents or salesmen for the organizations by selling or taking orders for the sale of tangible personal property, and no one shall be required to pay sales or use taxes on such sales***; and***

(2) Sales made by nonprofit educational youth programs affiliated with a land grant university cooperative extension service, if the net proceeds from the sales are used solely for the benefit of the affiliated programs.

Section 2. The provisions of this Act are effective for sales made after July 31, 1998.

HB 176, AN ACT relating to aquaculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.960 is amended to read as follows:

(1) The General Assembly recognizes the importance of ***aquaculture***[~~fish farming~~] to the agricultural economy of the state.

(2) ***"Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions***[~~"Farm-raised fish" means native or exotic fish species spawned or raised under controlled conditions in private waters for commercial purposes~~].

(3) The State Department of Agriculture shall promote the development of markets for ***aquacultural products***[~~farm-raised fish~~]. The department shall work cooperatively with Kentucky State University's aquaculture program utilizing its expertise in the area of ***aquaculture***[~~fish farming~~]. The department also shall work cooperatively with other state agencies in assisting ***aquaculture producers***[~~fish farmers~~] to obtain the necessary permits.

[~~(4) This section shall not affect the powers of the Fish and Wildlife Resources Commission or the Department of Fish and Wildlife Resources as contained in KRS Chapter 150.~~]

The Committee on Banking and Insurance reported **HB 112**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, ***except as otherwise provided in this chapter.***

(a) [~~but ~~]"Agent" does not include an individual who represents***:***

1. An issuer in:

a.[~~(a)~~] Effecting a transaction in a security exempted by subsections (1), (2), (3), (10), or (11) of KRS 292.400, or subsections (5), (9), or (12) thereof if no commission or other remuneration is received for the sale of such securities***;***[~~,~~]

b.[~~(b)~~] Effecting transactions exempted by KRS 292.410 unless otherwise required***;***[~~, or~~]

c. Effecting transactions in a covered security under Section 18(b)(3) or 18(b)(4)(d) of the Securities Act of 1933 if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in Kentucky;

d.[~~(c)~~] Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state***; or***[~~. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an agent only if he otherwise comes within this definition;~~]

e. Effecting other transactions if the individual primarily performs, or is intended primarily to perform upon completion of an offering of the issuer's own securities, substantial duties for or on behalf of the issuer otherwise than in connection with transactions in the issuer's own securities and the individual's compensation is not based, in whole or in part, upon the amount of purchases or sales of the issuer's own securities effected for the issuer; or

2. A broker-dealer in effecting transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.

(b) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an "agent" only if he otherwise comes within the definition in this subsection;

(2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) An agent, issuer, bank, savings institution, or trust company,

(b) A person who has no place of business in this state***:***

1. If he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees***;***[~~,~~] or

2. [~~(c) A person who has no place of business in this state ~~]If during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in ***this*** paragraph[~~ (b)~~];

(3) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;

(4) "Commissioner" means the commissioner of the Department of Financial Institutions ***or any individual employee of the Department of Financial Institutions expressly designated by order of the commissioner to act in the commissioner's place***;

(5) ***"Covered advisor" means any person who is registered under Section 203 of the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-3;***

(6) "Covered security" means any security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder;

(7) "Department" means the Department of Financial Institutions of the Commonwealth of Kentucky;

(8) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(9)[~~(6)~~] "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(10)[~~(7)~~] "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) A bank, savings institution, or trust company;

(b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);

(f) A person who has no place of business in this state if:

1. His only clients in this state are other investment advisers, ***covered advisers,*** broker-dealers, banks, savings institutions, trust companies, insurance companies,[~~ investment companies as defined in the Investment Company Act of 1940,~~] pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. During any period of twelve (12) consecutive months he does not ***have***[~~direct business communications into this state in any manner to~~] more than five (5) clients other than those specified in subparagraph 1.***;***[~~, or~~]

(g) ***An investment adviser representative or a person excluded from the definition of investment adviser representative;***

(h) A person who is excluded from the definition of investment adviser under Section 202(a)(11) of the Investment Advisors Act of 1940;

(i) A covered adviser; or

(j) Such other persons not within the intent of this subsection as the ***commissioner***[~~director~~] may by rule or order designate;

(11) "Investment adviser representative" means:

(a) With respect to any investment adviser registered or required to be registered under this chapter, any partner, officer, director of, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who:

1. Makes any recommendations or otherwise renders advice regarding securities;

2. Manages accounts or portfolios of clients;

3. Determines which recommendation or advice regarding securities should be given;

4. Solicits, offers, or negotiates for the sale of or sells investment advisory services; or

5. Supervises employees who perform any of the functions described in this paragraph; and

(b) With respect to any covered adviser, any person defined as an investment adviser representative who has a place of business located in Kentucky, as those terms are defined in Rule 203A-3 of the Securities Exchange Act of 1934.

(12)[~~(8)~~] "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;

(13)[~~(9)~~] "Nonissuer" means not directly or indirectly for the benefit of the issuer;

(14)[~~(10)~~] "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(15) "Rule" or "regulation" means either or both administrative rules or administrative regulations promulgated by any

governmental or other regulatory or self-regulatory entity, as the context requires;

(16)[~~(11)~~] "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(17)[~~(12)~~] "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;

(18)[~~(13)~~] "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing[~~. "Security" does not include any insurance or endowment policy or annuity contract or variable annuity contract issued by any insurance company~~];

(19)[~~(14)~~] "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico; ***and***

(20)[~~(15)~~] Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 2. KRS 292.313 is amended to read as follows:

(1) KRS 292.320(1), 292.330(1), 292.340, 292.450, and 292.480 apply to persons who sell or offer to sell when an offer to sell is made in this state, or an offer to buy is made and accepted in this state.

(2) KRS 292.320(1), 292.330(1), and 292.450 apply to persons who buy or offer to buy when an offer to buy is made in this state, or an offer to sell is made and accepted in this state.

(3) For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received at the place to which it is directed (or at any post office in this state in the case of a mailed offer).

(4) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance is communicated to the offeror in this state and has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed (or at any post office in this state in the case of a mailed acceptance).

(5) An offer to sell or to buy is not made in this state when the publisher circulates or there is circulated on his behalf in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds (2/3) of its circulation outside this state during the past twelve (12) months, or a radio or television program originating outside this state is received in this state.

(6) Subsections (2), (3), and (4) of KRS 292.320, as well as KRS 292.330(1) and 292.450 so far as investment advisers ***or investment adviser representatives*** are concerned, apply when any act instrumental in effecting prohibited conduct is done in this state, whether or not either party is then present in this state.

Section 3. KRS 292.320 is amended to read as follows:

(1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(2) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

(a) To employ any device, scheme, or artifice to defraud the other person; or

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(3) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it

provides in writing:

(a) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(b) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(c) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

(4) Paragraph (a) of subsection (3) of this section does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date.[~~ Paragraph (a) of subsection (3) of this section shall not prohibit investment advisers to investment companies as defined in the Investment Company Act of 1940 from charging any incentive compensation fee not in violation of the Investment Company Act of 1940 or the rules and regulations promulgated by the Securities and Exchange Commission thereunder, provided that the commissioner shall approve in writing the incentive compensation fee arrangement as being fair and reasonable.~~] "Assignment", as used in paragraph (b) of subsection (3) of this section includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one (1) or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

Section 4. KRS 292.325 is amended to read as follows:

(1) ***Except as otherwise provided in this section,*** the commissioner may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, radio, television, or other advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser, as part of a registered offering or as a part of an exemption offering required to be filed under KRS 292.415.

(2) The provisions of this section shall not require a covered adviser to file with the commissioner any documents listed in subsection (1) of this section or any document, except a prospectus, relating to a covered security.

Section 5. KRS 292.330 is amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or agent, unless he is registered under this chapter. It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. ***It is unlawful for any investment adviser that is required to be registered under this chapter to employ an investment adviser representative unless the investment adviser representative is registered under this chapter.*** It is unlawful for any person to transact business in this state as an investment adviser unless:

(a) He is so registered under this chapter***;***[~~,~~] or

(b) He is registered as a broker-dealer under this chapter[~~, or~~

~~(c) His only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies~~].

(2) ***It is unlawful for any covered adviser to transact business in this state unless:***

(a) The person has made a notice filing with the commissioner consisting of a copy of those documents that have been filed by the covered adviser with the U.S. Securities and Exchange Commission and that the commissioner by rule or order requires to be filed together with consent to service of process and the fee prescribed in subsection (11)(b) of this section;

(b) The person is registered as a broker-dealer under this chapter;

(c) The person's only clients are investment companies as defined in the Investment Company Act of 1940, or insurance companies; or

(d) The person is excluded from the definition of investment adviser under subsection (10)(a) to (h) and (j) of Section 1 of this Act.

It is unlawful for an investment adviser representative to be employed by a covered adviser who is required to make a notice filing with the commissioner unless the investment adviser representative is registered under this chapter.

(3) A broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** may apply for registration by filing with the commissioner or the commissioner's designee an application together with a consent to service of process pursuant to KRS 292.430 and payment of the fee prescribed in subsection ***(11)***[~~(10)~~].

(a) Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer, or director or a person occupying a similar status or performing similar functions (except any partner, officer, or director or other such person whose registration as an agent is denied, suspended, or revoked under subsection ***(13)***[~~(12)~~]) without the filing of applications for registration as agents or the payment of fees for registration as agents.

(b) Except for any partner, officer, director, or other person whose registration as an investment adviser representative is denied, suspended, or revoked under subsection (13) of this section, registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, officer, director, or a person occupying a similar status or performing similar functions, without the filing of applications for registration as investment adviser representatives or the payment of fees for registration, as investment adviser representatives.

(c) The ***registration*** application shall contain whatever information the commissioner requires concerning such matters as:

1.[~~(a)~~] The applicant's form and place of organization;

2.[~~(b)~~] The applicant's proposed method of doing business;

3.[~~(c)~~] The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser; and in the case of an investment adviser, the qualifications and business history of an employee;

4.[~~(d)~~] Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

5.[~~(e)~~] The applicant's financial condition and history.

(4)[~~(3)~~] If no denial order is in effect and no proceeding is pending under subsection ***(13)***[~~(12)~~], registration becomes effective at noon of the thirtieth day after an application is filed***, except as otherwise noted in this subsection:***[~~.~~]

(a) The commissioner may specify an earlier effective date and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment.

(b) The commissioner may by rule establish a procedure for transfer of an agent ***or an investment adviser representative*** whereby registration may become effective prior to the filing of an application; but any registration so transferred shall not be effective for more than thirty (30) days, unless within that thirty (30) days a properly completed application is filed.

(c) The thirtieth day effective day is tolled if, before 5 p.m. EST of the thirtieth day, the commissioner notifies the applicant that the application is incomplete or that he intends to deny the application, pending the completion of the application or a hearing and final order on the intent to deny the application or the waiver of a hearing through the failure to request a hearing with fifteen (15) days of receiving notice of the intent to deny the application, as applicable.

(5)[~~(4)~~] The commissioner may require as a condition of registration that the applicant (and, in the case of a corporation or partnership, the officers, directors, or partners) pass a written examination as evidence of knowledge of the securities business.

(6)[~~(5)~~] ***Subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940,*** the commissioner may by rule require the existence and maintenance of a minimum liquid net capital for registered broker-dealers and investment advisers and a minimum ratio between net capital and aggregate indebtedness, or both.

(7)[~~(6)~~] ***Subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940,*** the commissioner may by rule require registered broker-dealers, agents, and investment advisers to post surety bonds in an amount up to $25,000, and may determine their conditions, except under this subsection that no such bond may be required of any registrant whose net capital exceeds $100,000. An appropriate deposit of cash or securities shall be accepted in lieu of any required surety bond. Every surety bond shall provide for suit thereon by any person who has a cause of action under KRS 292.480, and every such bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within ***three (3)***[~~two (2)~~] years after ***the later of*** the sale or other act upon which it is based ***or the discovery of the sale or act***.

(8)[~~(7)~~] ***Subject to the limitations of Section 15 of the Securities Exchange Act of 1934,*** the commissioner may by rule require registered broker-dealers to carry fidelity bonds, covering its agents, general partners, and officers, in such form, covering such risks, and in such amounts (not exceeding $250,000) as he deems necessary for the protection of the public; and he may by rule require registered broker-dealers to furnish satisfactory evidence that they have such bonds.

(9)[~~(8)~~] Every registration of a broker-dealer, agent***,***[~~ or~~] investment adviser***, and investment adviser representative and every notice filing*** shall be effective until December 31 of the year of registration ***or notice*** unless the commissioner by rule extends or lessens ***the***[~~such~~] registration ***or notice period***[~~and~~] may be renewed as hereinafter provided. The commissioner may by rule increase or reduce the registration fee ***or notice filing fee*** set forth in subsection ***(11)***[~~(10)~~] of this section should ***the***[~~such~~] registration period ***or notice period*** be extended or lessened.

(a) The registration of an agent is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application or a notice filed with the commissioner or the commissioner's designee. When an agent begins or terminates a connection with an issuer or registered broker-dealer, the agent and the issuer or broker-dealer shall promptly notify the commissioner or the commissioner's designee.

(b) The registration of an investment adviser representative is not effective during any period when he is not associated with an investment adviser specified in his application or with a covered adviser specified in a notice filed with the commissioner or the commissioner's designee. When an investment adviser representative begins or terminates a connection with an investment adviser, the investment adviser representative and the investment adviser shall promptly notify the commissioner or the commissioner's designee. When an investment adviser representative begins or terminates a connection with a covered adviser, the investment adviser representative shall notify the commissioner or the commissioner's designee.

(10)[~~(9)~~] Registration of a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** may be renewed by filing with the commissioner or the commissioner's designee prior to the expiration thereof an application containing ***the***[~~such~~] information[~~ as~~] the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** filed with the commissioner or the commissioner's designee by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) days. ***A notice filing by a covered adviser may be renewed by filing with the commissioner or the commissioner's designee a notice filing consisting of any documents filed with the U.S. Securities and Exchange Commission as the commissioner may require by rule or order.*** A registered broker-dealer or investment adviser may file an application for registration of a successor ***and a covered adviser may file a notice filing for a successor***, whether or not the successor is then in existence, for the unexpired portion of the year without payment of any fee.

(11) (a)[~~(10)~~] The fee for initial or renewal registration shall be one hundred twenty dollars ($120) for a broker-dealer, one hundred dollars ($100) for an investment adviser, fifty dollars ($50) for an agent, ***fifty dollars ($50) for an investment adviser representative,*** and fifty dollars ($50) for transfer of an agent ***or investment adviser representative***, none of which fees shall be refundable.

(b) The fee for notice filings shall be two hundred dollars ($200) for a covered adviser.

(12)[~~(11)~~] (a) Every registered broker-dealer and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner by rule prescribes. All records required shall be preserved for three (3) years unless the commissioner by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the commissioner, be made available at any time for examination by him either in the principal office of the registrant or by production of exact copies thereof in this state. ***If a broker-dealer is registered with the U.S. Securities and Exchange Commission, the books and records required by this section are limited to those that the Securities Act of 1934 requires the broker-dealer to maintain. If an investment adviser has his principal place of business in another state, the requirements of this section shall be limited to those books and records requirements of that state, provided the adviser is registered in that state and in compliance with its recordkeeping requirements.***

(b) Every registered broker-dealer and investment adviser shall file such reports as the commissioner by rule prescribes. ***If a broker-dealer is registered with the U.S. Securities and Exchange Commission, the reports required by this section are limited to those required under the Securities Act of 1934. If an investment adviser has his principal place of business in another state, the requirements of this section shall be limited to the reporting requirements of that state, provided the adviser is registered in that state and in compliance with its reporting requirements.***

(c) If the information contained in any document filed with the commissioner or the commissioner's designee is or becomes inaccurate or incomplete in any material respect, the broker-dealer ***or investment adviser, as applicable,*** shall promptly file a correcting amendment. ***In the case of a covered adviser, the adviser shall file only copies of those documents required to be filed with the Securities and Exchange Commission.***

(d) The commissioner may make periodic examinations, within or without this state, of each broker-dealer and investment adviser at such times and in such scope as he determines. These examinations may be made without prior notice to the broker-dealer or investment adviser. The expense reasonably attributable to any such examination shall be paid by the broker-dealer or investment adviser whose business is examined but the expense so payable shall not exceed an amount which the commissioner by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the commissioner, insofar as he deems it practicable in administering this subsection, may cooperate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

(e) The commissioner may by rule prohibit unreasonable charges, profits, commissions, or other compensation of broker-dealers and investment advisers.

(f) The commissioner may prescribe rules for the conduct of business by broker-dealers and investment advisers which he finds appropriate in the public interest and for the protection of investors.

(g) The commissioner may enter into an arrangement, agreement, or other working relationship with federal, other state, and self-regulatory authorities whereby documents may be filed and maintained in a central depository system with the National Association of Securities Dealers or other agencies or authorities. It is the intent of this paragraph that the commissioner be provided power to reduce duplication of filings, reduce administrative costs, and establish uniform procedures, forms, and administration with the states and federal authorities. The commissioner may permit initial and renewal registration filings required under this chapter to be filed with the Securities and Exchange Commission, the National Association of Securities Dealers, or other similar authorities. The commissioner may accept uniform securities examinations or other procedures designed to implement a uniform national securities regulatory system or facilitate common practices and procedures among the states.

(13)[~~(12)~~] (a) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative, or bar or censure any registrant or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant, from employment with a registered broker-dealer or investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in the Commonwealth of Kentucky,*** if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

1. Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;
2. Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor law or any rule or order under this chapter or a predecessor law;
3. Has been convicted, within the past ten (10) years, of any misdemeanor involving a security or any aspect of the securities business, or any felony, or has pending against him any such criminal charge;
4. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;
5. Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative***;
6. ***Is the subject of any of the following orders that are currently effective and were issued within the last five (5) years:***
    - ***a. An order by the securities agency or administrator of another state or Canadian province or territory, or by the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, limiting or revoking the person's license as a broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms;***
    - ***b. An order of a self-regulatory organization finding a violation of federal law or a rule of the self-regulatory organization;***
    - ***c. A United States Postal Service fraud order;***
    - ***d. A cease and desist or other administrative order entered after notice and opportunity for hearing by the commissioner, the securities agency or administrator of another state, or a Canadian province or territory, the Securities and Exchange Commission, or the Commodity Futures Trading Commission; or***
    - ***e. An order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act***[~~Is the subject of an order entered within the past five (5) years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer or agent, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities~~

~~exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order, but:~~

a. ~~The commissioner may not institute a revocation or suspension proceeding under this paragraph more than one (1) year from the date of the order relied on; and~~

b. ~~He may not enter any order under this paragraph on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section]~~;

7. Has engaged in dishonest or unethical practices in the securities business;

8. Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;~~[or]~~

9. Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as provided in paragraph (b) below; or the commissioner may by order, deny, suspend, or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant:

a. Has failed reasonably to supervise his agents if he is a broker-dealer or his employees ***or investment adviser representatives*** if he is an investment adviser; or

b. Has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected.

The commissioner may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next thirty (30) days***; or***

10. Has violated the law of a foreign jurisdiction governing or regulating any aspect of the business of securities or banking; or within the past five (5) years, has been the subject of an action of a securities regulator or a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of the securities regulator of a state, federal, or foreign jurisdiction suspending or expelling the person from membership in the exchange or self-regulatory organization.

(b) The following provisions govern the application of subparagraph 9. of paragraph (a) of this subsection:

1. The commissioner may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than the broker-dealer himself if he is an individual or an agent of the broker-dealer;

2. The commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than the investment adviser himself if he is an individual or any other person who represents the investment adviser in doing any of the acts which make him an investment adviser;

3. The commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;

4. The commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer;

5. The commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser ***or an investment adviser representative***, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser ***or an investment adviser representative***;

6. The commissioner may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as ***investment adviser representatives and*** persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser.

(c) The commissioner may by order summarily postpone ***an application for registration*** or suspend ***a*** registration pending final determination of any proceeding under this section***. A summary suspension of an existing registration shall only be made based upon a finding by the commissioner that such action is in the public interest and that there is substantial evidence of a violation of law that constitutes an immediate danger to the public. KRS 13B.125 shall apply to the entry of a summary suspension of a registration. An appeal of a summary suspension shall address only the necessity of a summary action and shall not constitute an appeal***

of the merits of the underlying violation of the law. Upon the entry of the order, the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative***, or is subject to an adjudication of mental disability or to the control of a conservator or guardian, or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under subparagraph 2. of paragraph (a) of this subsection within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective. ***A notice filing may be withdrawn or terminated by providing notice of the withdrawal or termination, as the case may be, to the commissioner; the withdrawal or termination is effective upon receipt by the commissioner of the notice.***

(f) No order may be entered under any part of this section except the first sentence of paragraph (c) of this subsection without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent ***or representative***), opportunity for hearing, and written findings of fact and conclusions of law.

(14) Notwithstanding subsection (1) of this section, any broker-dealer, agent, investment adviser or investment adviser representative, or transaction or class of transactions by such persons, for which the commissioner expressly by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors shall be exempt from registration under this section. The commissioner may require that persons exempted from registration under this provision file such forms and information for notice purposes and be bound by one (1) or several provisions of this section as the commissioner deems necessary and appropriate in the public interest or for the protection of investors and the commissioner may impose filing fees in connection therewith, provided however, that the amount of the fee shall not exceed the fee which would be due in the event the exempt person were required to obtain registration.

Section 6. KRS 292.340 is amended to read as follows:

It is unlawful for any person to offer or sell any security in this state, ***unless the security is registered under this chapter, or the security or transaction is exempt under this chapter, or the security is a covered security***[~~except securities exempt under KRS 292.400 or when sold in transactions exempt under KRS 292.410, unless such security is registered under this chapter~~].

Section 7. KRS 292.360 is amended to read as follows:

(1) Any security for which a registration statement[~~ has been filed~~] under the Securities Act of 1933 ***or an offering statement under Regulation A of the Securities Act of 1933 has been filed with the Securities and Exchange Commission*** in connection with the same offering may be registered by coordination.

(2) A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in KRS 292.380, and, if required under KRS 292.430, a consent to service of process meeting the requirements of that section:

(a) ***One(1) copy***[~~Three (3) copies~~] of the latest form of prospectus ***or offering circular*** filed under the Securities Act of 1933 ***or Regulation A promulgated under that Act*** together with all amendments thereto;

(b) The amount of securities to be offered in this state;

(c) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

(d) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;

(e) If the commissioner by rule or otherwise requires, a copy of the articles of incorporation and bylaws (or their substantial equivalents) ***of the issuer*** currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(f) If the commissioner requests, any other information, or copies of any other documents, filed under the Securities Act of 1933 ***or Regulation A promulgated under that Act***; and

(g) An undertaking to forward promptly ***to the commissioner*** all amendments to the federal registration statement ***or offering statement***, other than an amendment which merely delays the effective date.

(3) A registration statement under this section automatically becomes effective ***with the commissioner*** at the moment the federal registration statement ***or offering statement*** becomes effective ***or is qualified,*** if all the following conditions are satisfied:

(a) No stop order is in effect and no proceeding is pending under KRS 292.390;

(b) The registration statement has been on file with the commissioner for at least ten (10) days; and

(c) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two (2) full business days or such shorter period as the commissioner permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the commissioner by telephone***,***[~~or~~] telegram***, or other electronic means*** of the date and time when the federal registration statement ***or offering statement*** became effective ***or was qualified*** and the content of the price amendment, if any, and shall promptly file a post-effective amendment, containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

(4) Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with subsection (3) of this section, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) ***of***[~~or~~] the issuance of the order. If the registrant proves compliance with the requirements of subsection (3) of this section as to notice and post-effective amendment, the stop order is void as of the time of its entry. The commissioner may by rule or otherwise waive either or both of the conditions specified in paragraphs (b) and (c) of subsection (3) of this section. If the federal registration statement ***or offering statement*** becomes effective ***or is qualified*** before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective ***with the commissioner*** as soon as all the conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement ***or offering statement*** is expected to become effective ***or to be qualified***, the commissioner shall promptly advise the registrant by telephone***,***[~~or~~] telegram, ***or other electronic means,*** at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under KRS 292.390; but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

(5) Notwithstanding subsection (3) of this section, a registration statement under the Securities Act of 1933 that becomes effective immediately upon filing with the Securities and Exchange Commission shall become effective under this section automatically at the time the registration statement, in the form filed with the Securities and Exchange Commission, is properly filed, along with the appropriate fee, with the commissioner.

Section 8. KRS 292.370 is amended to read as follows:

(1) Any security may be registered by qualification.

(2) A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in KRS 292.380 and, if required under KRS 292.430, a consent to service of process meeting the requirements of that section:

(a) With respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(b) With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five (5) years; the amount of securities of the issuer held by him as of a specified date within ninety (90) days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any material transaction with the issuer or any subsidiary effected within the past three (3) years or proposed to be effected by him or any of his associates as defined in the rules promulgated under the Securities Exchange Act of 1934;

(c) With respect to persons covered in paragraph (b): the remuneration paid to all such persons in the aggregate during the past twelve (12) months, and estimated to be paid during the next twelve (12) months, directly or indirectly, by the issuer (together with all predecessors, parents, and subsidiaries), and the amount paid and to be paid to each of those who received or are to receive more than fifteen thousand dollars ($15,000);

(d) With respect to any person not named in paragraph (b), owning of record, or beneficially, if known, ten percent (10%) or more of the outstanding shares of any class of equity security of the issuer: the information specified in paragraphs (b) and (c) other than his occupation;

(e) With respect to every promoter, not named in paragraphs (b) and (d), if the issuer was organized within the past three (3) years: the information specified in paragraphs (b) and (c), any amount paid to him by the issuer within that period or intended to be paid to him, and the consideration for any such payment;

(f) The capitalization and long-term debt (on both a current and pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, good will, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past two (2) years or is obligated to issue any of its securities;

(g) The kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price or the method by which it is to be computed; and any variation therefrom at which any portion of the offering is to be made to any persons or class of persons, other than the underwriters, with a specification of such person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately, cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering); the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

(h) The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated, and the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including good will) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the cost basis or book value of the assets in the hands of the vendors (if they are officers, directors, partners, or controlling shareholders of the issuer), the names of any persons who have received commissions in connection with the acquisition and the amounts of any such commissions and any other expenses in connection with the acquisition (including the cost of borrowing money to finance the acquisition);

(i) A description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in paragraph (b), (c), (d), (e), (g), or (h) and by any person who holds or will hold ten percent (10%) or more in the aggregate of any such options;

(j) The dates of, parties to, and general effect, concisely stated, of every management, employment, or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two (2) years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer or any of its significant subsidiaries is a party and which may materially affect its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities);

(k) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

(l) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;

(m) A copy of any prospectus or circular intended as of the effective date to be used in connection with the offering;

(n) A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

(o) A signed or conformed copy of an opinion of counsel, as to the legality of the security being registered (with an English translation if it is in a foreign language), which shall state, in addition to such matters as the commissioner may request whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer, and whether or not the offering, as contemplated in the registration statement will comply with the requirements of any claimed exemption from the registration provisions of the Securities Act of 1933;

(p) ***Financial statements of the issuer that meet the following requirements:***

1. *If the maximum proceeds to be received from the offering do not exceed two million dollars ($2,000,000), a balance sheet as of the end of the most recent fiscal year and, if the date of the most recent fiscal year end is more than four (4) months prior to the date of filing, a balance sheet as of a date within four (4) months prior to the filing of the registration statement; and statements of income for the last fiscal year preceding the date of the most recent balance sheet filed and for the period, if any, between the close of such fiscal year and the date of the most recent balance sheet filed. The balance sheet and income statement for the most recent fiscal year shall be audited if the financial statements have previously been audited for other purposes. Otherwise, all financial statements may be unaudited;*

2. *If the maximum proceeds to be received from the offering do not exceed five million dollars ($5,000,000), a balance sheet as of the end of the most recent fiscal year and, if the date of the most recent fiscal year end is more than four (4) months prior to the date of filing, a balance sheet as of a date within four (4) months prior to the filing of the registration statement; and statements of income, cash flows, and changes in stockholders equity for each of the two (2) fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of the fiscal years and the date of the most recent balance sheet filed. The balance sheet and statements of income, cash flows, and changes in stockholders equity for the most recent fiscal year shall be audited; all other financial statements may be unaudited;*

3. *If the maximum proceeds to be received from the offering exceed five million dollars ($5,000,000), a balance sheet as of the end of the most recent fiscal year and, if the date of the most recent fiscal year end is more than four (4) months prior to the date of filing, a balance sheet as of a date within four (4) months prior to the filing of the registration statement; and statements of income, cash flows, and changes in stockholders equity for each of the three (3) fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of the fiscal years and the date of the most recent balance sheet filed. The balance sheet and statements of income, cash flows, and changes in stockholders equity for the most recent fiscal year shall be audited; all other financial statements may be unaudited;*

4. *Notwithstanding the provisions of this paragraph, if the issuer has been in existence for less than one (1) fiscal year, the balance sheet shall be as of a date not more than four (4) months prior to the date of filing of the registration statement, and the statements of income, cash flows, and changes in stockholders equity shall be for the period from inception through the date of the balance sheet filed;*

5. *If any part of the proceeds of the offering is to be applied to the purchase of any business whose annual sales or revenues for its most recent fiscal year are in excess of twenty percent (20%) of the issuer's sales or revenues for its most recent fiscal year or involves the acquisition of assets in excess of twenty percent (20%) of the issuer's assets as of its most recent fiscal year end, except as specifically exempted by the commissioner, the same financial statements which would be required if that business were the issuer shall be filed;*

6. *The commissioner, where necessary or appropriate in the public interest or for the protection of investors, may permit the omission of one (1) or more of the financial statements or the substitution of appropriate statements of comparable character, and may waive the requirement that the financial statements be audited; and*

7. *The financial statements required by this subsection shall be prepared as to form and content in accordance with generally accepted accounting principles*[~~A balance sheet of the issuer as of a date not more than four (4) months prior to the date of filing of the registration statement, a balance sheet certified by an independent public or certified public accountant as of the close of the last fiscal year, statements of income, changes in stockholders equity and changes in financial position for each of the issuers three (3) fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of such fiscal years and date of the most recent balance sheet filed, or, if the issuer has been in existence for less than three (3) years, such statements for the period preceding the date of the most recent balance sheet filed, and if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant. The statements of income, changes in stockholders equity, and changes in financial position shall be certified for the latest fiscal year presented~~];

(q) The written consent of an accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if the person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement; and

(r) Such additional information as the commissioner requires by rule or order.

Section 9. KRS 292.380 is amended to read as follows:

(1) Except as otherwise expressly provided in this chapter, a registration statement under this chapter becomes effective when the commissioner so orders. The commissioner may require as a condition of registration under this chapter that a prospectus containing any designated part of the appropriate information specified in this chapter be sent or given to each person to whom an offer is made before or concurrently with:

(a) The first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution;

(b) The confirmation of any sale made by or for the account of any such person;

(c) Payment pursuant to any such sale; or

(d) Delivery of the security pursuant to any such sale, whichever first occurs; but the commissioner shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations thereunder.

(2) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. Any document filed under this chapter or a predecessor law within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The commissioner may by rule or otherwise permit the omission of any item of information or document from any registration statement.

(3) The commissioner may require as a condition of registration by qualification or coordination that (a) the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount or (b) any security issued within the past three (3) years, or to be issued, to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be delivered in escrow. The commissioner may by rule or order determine the conditions of any escrow or impounding required hereunder. The commissioner shall not reject a depository solely because of location in another state. All securities delivered in escrow to the commissioner or some other depository satisfactory to him prior to January 1, 1968, which have not previously been released shall be released from escrow and all securities delivered in escrow to the commissioner or some other depository satisfactory to him subsequent to January 1, 1968 which have not previously been released shall be released from escrow no later than ten (10) years after the date of delivery into escrow.

(4) The commissioner may also require as a condition of registration by qualification that the issuer undertake to keep the securities registered under this chapter for a period of up to five (5) years or until the securities become exempt securities under ***Section 12 of this Act or become covered securities***[~~KRS 292.410~~], and that the issuer forward to its security holders audited annual ***financial statements***[~~financials~~] during the period for which the shares are registered. The commissioner may by rule or order impose other undertakings.

(5) For the registration of securities by notification***,***[~~ or~~] coordination, or qualification, there shall be paid to the commissioner an examination fee of one hundred twenty-five dollars ($125) and a registration fee of three-fiftieths of one percent (0.06%) of the aggregate offering price of the securities which are to be offered in this state, but the registration fee shall in no case be less than sixty dollars ($60) nor more than one thousand two hundred dollars ($1,200). The examination fee and the registration fee shall be payable in separate checks. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under KRS 292.390, the commissioner shall retain the examination fee.[~~ For the registration of securities issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, a new registration fee and examination fee shall be paid each year that the registration remains in effect, based upon the aggregate offering price of such securities which are to be offered in this state during that year, even though the maximum fee was paid the preceding year; and the registration statement for such securities may be amended to increase the amount of securities to be offered.~~] For a registration by notification for market-making purposes only the examination fee need be paid.

(6) When securities are registered by notification or by coordination or by qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer. Every registration statement is effective for one (1) year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under KRS 292.390. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction:

(a) So long as the registration statement is effective; and

(b) Between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under KRS 292.390 (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one (1) year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the director.

~~[(7) The commissioner may require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering. The commissioner shall impose a fee of ten dollars ($10) for each such report filed with him.]~~

Section 10. KRS 292.390 is amended to read as follows:

(1) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that:

(a) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under KRS 292.380(5) as of its effective date,~~[or any report under KRS 292.380(7),]~~ is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been willfully violated, in connection with the offering by:

1. The person filing the registration statement;

2. The issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or

3. Any underwriter;

(c) The security registered or sought to be registered is the subject of an administrative stop order or a similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but:

1. The commissioner may not institute a proceeding against an effective registration statement under this paragraph more than one (1) year from the date of the order or injunction relied on; and

2. He may not enter an order under this paragraph on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(d) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(e) The offering has worked or tended to work a fraud upon purchasers or would so operate;

(f) The offering has been, or would be, made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensations, or promoters' profits or participation, or unreasonable amounts or kinds of options;

(g) When a security is sought to be registered by notification it is not eligible for such registration;

(h) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by KRS 292.360(2)(g);

(i) The applicant or registrant has failed to pay the proper registration fee; but the commissioner may enter only a denial order under this paragraph and he shall vacate any such order when the deficiency has been corrected;

(j) ***Commissions, compensation, and selling and other transaction expenses***~~[A commission or fee]~~ greater than ***twenty percent (20%) in the aggregate, or such other amount specified in the guidelines adopted by the North American Securities Administrators Association,***~~[fifteen percent (15%)]~~ would be paid directly or indirectly, in consideration for the sale of securities sought to be registered~~[and this fee shall exclude reasonable legal and accounting expenses]~~.

(2) The commissioner may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next thirty (30) days.

(3) The commissioner may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of a stop order under any part of this section, the commissioner shall promptly notify the issuer of the securities, the applicant or registrant, and the person on whose behalf the securities are to be or have been offered that the order has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within fifteen (15) days and none is ordered by the commissioner, the commissioner shall enter his written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the

commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the issuer and to the applicant or registrant, shall enter his written finding of fact and conclusions of law and may modify or vacate the order. The commissioner may modify or vacate a stop order if he finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

SECTION 11. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall require the filing of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:

(a) Prior to the initial offer of such covered security in this state, all documents that are part of a current federal registration statement filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933 or a notice form adopted by the commissioner in lieu thereof, together with a consent to service of process signed by the issuer and with payment of a filing fee as follows:

1. Five hundred dollars ($500) for an investment company, other than a unit investment trust, that is registered or that has filed a registration statement, under the Investment Company Act of 1940; or

2. Three hundred dollars ($300) for a unit investment trust that is registered or that has filed a registration statement under the Investment Company Act of 1940; and

(b) After the initial offer of such covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933, or a notice form adopted by the commissioner in lieu thereof, which shall be filed concurrently with the commissioner;

(c) Except for a notice filing by a unit investment trust, which shall be effective indefinitely, all notice filings for such covered securities are effective for a period of one (1) year upon receipt by the commissioner of a properly completed filing, including the correct fee, unless another date is requested by the issuer. An annual filing shall be required of an open-end investment company that continuously offers or sells its securities in this state, which filing shall consist of the documents specified in paragraph (a) of this subsection, exclusive of the consent to service of process, and a filing fee in the amount of five hundred dollars ($500). The annual renewal filing shall be effective upon the expiration of the prior filing period if it is properly completed, including the correct fee, and is received by the commissioner on or before the expiration date;

(d) Amendments to a notice filing are effective upon receipt by the commissioner. Termination of a notice filing is effective upon receipt by the commissioner of notice of the termination; and

(e) Notwithstanding the provisions of paragraphs (a) to (d) of this subsection, for the period ended October 10, 1999, the commissioner may require the registration of a covered security issued by any issuer for which a fee has not been properly paid and the improper payment has not been remedied within ten (10) business days following receipt of written notification from the commissioner to the issuer of the nonpayment or underpayment of the fee, as required by this chapter.

(2) The commissioner shall require the filing of, with respect to any security that is a covered security under Section 18(b)(4)(D) of the Securities Act of 1933, a notice on SEC Form D, a two hundred fifty dollar ($250) filing fee, and a consent to service of process signed by the issuer no later than fifteen (15) days after the first sale of such covered security in this state.

(3) The commissioner may require the filing of any document filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933 with respect to a covered security under Section 18(b)(3) or (4) of the Securities Act of 1933, together with a filing fee in the amount of two hundred fifty dollars ($250).

(4) The commissioner may issue a stop order suspending the offer and sale of a covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, upon finding that:

(a) The order is necessary or appropriate in the public interest or for the protection of investors; and

(b) There is a failure to comply with any condition established under this section.

(5) The commissioner may waive any or all of the provisions of this section upon finding that they are not necessary or appropriate in the public interest or for the protection of investors.

Section 12. KRS 292.400 is amended to read as follows:

KRS 292.340 to 292.390 shall not apply to any of the following:

(1) Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one (1) or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with

which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institutions, or trust company organized and supervised under the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(5) Securities issued by corporations formed under KRS Chapter 279;

(6) Any security issued or guaranteed by any federal credit union or any credit union;

(7) Any security issued or guaranteed by any[~~ railroad, other~~] common carrier, public utility, or holding company which is:

(a)[~~ Subject to the jurisdiction of the Interstate Commerce Commission;~~

~~(b)~~] A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act;

(b)[~~(c)~~]Regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or

(c)[~~(d)~~]Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the ***Chicago***[~~Midwest~~] Stock Exchange, the Pacific Stock Exchange, ***the Philadelphia Stock Exchange, the Chicago Board Options Exchange,*** or any other stock exchange approved by the commissioner; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing***. This exemption is available only for securities listed on Tier I of those exchanges having more than one (1) tier***;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidence an obligation to pay cash within nine (9) months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or any guarantee of the paper or of any renewal;

(11) Any ***security***[~~investment contract~~] issued in connection with an ***employee***[~~employee's~~] stock purchase, ***stock option,*** savings, pension, profit-sharing, or similar benefit plan***, including any underlying security. For those plans that do not qualify under Section 401 of the Internal Revenue Code and that provide for contribution by employees, the securities are exempt if a notice specifying the terms of the plan is filed with the commissioner before the securities are issued or before December 31, 1998, and the commissioner does not disallow the exemption within the next five (5) business days. The commissioner may, by rule, modify any requirement for a specific class of issuers or impose additional requirements for this exemption or waive any requirement***[~~if the commissioner is notified in writing thirty (30) days before the inception of the plan or, with respect to plans which are in effect on January 1, 1961, within sixty (60) days thereafter (or within thirty (30) days before they are reopened if they are closed on January 1, 1961)~~];

(12) Securities issued by corporations formed under or which have adopted the provisions of KRS 272.101 to 272.345 and patronage dividends or refunds be they in the form of stock, book equities, letters of credit, or letters of advice issued by any agricultural cooperative association which are the result of distributable earnings or savings;

(13)[~~ Any class of securities added by the commissioner, by rule and subject to the terms and conditions the commissioner prescribes, to the securities exempted by this section, if the commissioner finds that enforcement of this chapter with respect to the securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or limited character of the public offering. No issue of securities shall be exempted under this subsection if the aggregate amount at which the issue is offered to the public exceeds two hundred thousand dollars ($200,000);~~

~~(14) Any security which meets all of the following conditions:~~

~~(a) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;~~

~~(b) A class of the issuer's securities is required to be and is registered under Section 12 of the Securities Exchange Act of 1934, and has been so registered for the three (3) years immediately preceding the offering date;~~

~~(c) Neither the issuer nor a significant subsidiary has had a material default during the last seven (7) years (or the issuer's existence if less than seven (7) years) in the payment of:~~

~~1. Principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money; or~~

~~2. Rentals under leases with terms of three (3) years or more;~~

~~(d) The issuer has had consolidated net income (before extraordinary items and the cumulative effect of accounting changes) of at least one million dollars ($1,000,000) in four (4) of its last five (5) fiscal years including its last fiscal year; and if the offering is of interest-bearing securities, has had for its last fiscal year, such net income, but before deduction for income taxes and depreciation, of at least one and one-half (1-1/2) times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. "Last fiscal year" means the most recent year for which audited financial statements are available, if the statements cover a fiscal period ended not more than fifteen (15) months from the commencement of the offering;~~

~~(e) If the offering is of stock or shares, other than preferred stock or shares, the securities have voting rights and the rights include:~~

~~1. The right to have at least as many votes per share; and~~

~~2. The right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law;~~

~~(f) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six (6) months prior to the commencement of the offering, by at least twelve hundred (1,200) persons, and on that date there are at least seven hundred fifty thousand (750,000) such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least three million seven hundred fifty thousand dollars ($3,750,000). In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this section upon written information furnished by the record owners.~~

~~(15)~~] Memberships and voting stock issued by cooperative corporations formed under or which have adopted the provisions of KRS 272.020 to 272.050, and patronage refunds issued by cooperative corporations which are the result of distributable earnings or savings***;***

(14) Any security for which the commissioner expressly by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors; or

(15) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state; including any insurance or endowment policy or annuity contract or variable annuity contract issued by any insurance company.

Section 13. KRS 292.410 is amended to read as follows:

(1) Except as expressly provided, KRS 292.330 to 292.390 shall not apply to any of the following transactions:

(a) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(b) Any nonissuer distribution of an outstanding security by a registered broker-dealer, if the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three (3) preceding fiscal years, or during the existence of the issuer and any predecessors if less than three (3) years, in the payment of principal, interest, or dividends on the security;

(c) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the commissioner may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(d) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(e) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel first mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(g) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;

(h) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(i) *The offer or sale of a security by the issuer of the security if all of the following conditions are met:*

- *1. The issuer does not offer or sell the securities by means of a form of general advertisement or general solicitation. The following shall not constitute general solicitation within the meaning of this section:*
  - *a. Solicitation of indications of interest in accordance with the terms and conditions as the commissioner may adopt by rule; or*
  - *b. Offers to sell securities and the dissemination of written offering materials in accordance with the terms of this section at least thirty (30) days after the withdrawal of an application by the issuer to register the same class of securities;*
- *2. The issuer reasonably believes that each purchaser of the securities is acquiring the securities for investment and is aware of any restrictions imposed on transferability and resale of the securities. The basis for reasonable belief may include:*
  - *a. Obtaining a written representation signed by the purchaser that the purchaser is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on the transferability and resale of the securities; and*
  - *b. Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under this chapter, and setting forth or referring to the restrictions on transferability and sale of the securities; and*
- *3. The transaction satisfies one (1) of the following conditions:*
  - *a. Each purchaser has access to all the material facts with respect to the securities by reason of the purchaser's active involvement in the organization or management of the issuer or the purchaser's family relationship with a person actively involved in the organization or management of the issuer;*
  - *b. There are not more than fifteen (15) purchasers in Kentucky and each Kentucky purchaser is an "accredited investor" as defined by Rule 501 of the Securities Act of 1933 or is a purchaser described in subdivision a. of this subparagraph; or*
  - *c. The aggregate offering price of the securities, including securities sold outside of Kentucky, does not exceed five hundred thousand dollars ($500,000), the total number of purchasers, including purchasers outside of Kentucky, does not exceed thirty-five (35), and each purchaser either receives all of the material facts with respect to the decision to invest in the security or is an accredited investor or a purchaser described in subdivision a. of this subparagraph.*
- *4. Persons receiving commissions, finders fees, or other remuneration in connection with sales of securities in reliance on this subsection are not relieved of compliance with subsection (6) of Section 5 of this Act;*
- *5. The commissioner may by rule deny the exemption provided in this subsection to a particular class of issuers or may make the exemption available to the issuers upon compliance with additional conditions and requirements, if appropriate in furtherance of the intent of this chapter;*
- *6. The commissioner may, by order, increase the maximum number of purchasers or the maximum offering amount provided in paragraph 3.c. of this subsection upon request if the commissioner determines that any such increase is necessary or appropriate in the public interest or for the protection of investors. Any request to increase either or both of the conditions shall be made in writing to the commissioner before any sale in reliance on the requested increase and shall be accompanied by the following:*
  - *a. A statement of the amount of the increase in the maximum offering amount or in the number of purchasers being requested, and the issuer's reasons for requesting the increase;*
  - *b. A copy of the offering circular or other written materials being distributed to prospective purchasers;*
  - *c. A copy of the written representation and legend serving as the issuer's basis for reasonable belief of a purchaser's investment intent and awareness of restrictions on the transferability and resale of the security being acquired; and*
  - *d. A filing fee of two hundred fifty dollars ($250).*[~~Any transaction pursuant to an offer directed by the offeror to not more than twenty-five (25) persons (other than those designated in paragraph (h)) in this state during any period of twelve (12) consecutive months, whether or not the offeror or any of the offerees is then present in this state, if~~

~~1. The seller reasonably believes that all the buyers are purchasing for investment, and~~

~~2. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in paragraph (h)); but the commissioner may by rule or order, as to any security or transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in subparagraphs 1. and 2. of this paragraph with or without the substitution of a limitation on remuneration;~~]

(j) Any offer or sale of a preorganization certificate or subscription, if:

1. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber;~~[,]~~

2. The number of subscribers does not exceed twenty-five (25);~~[,]~~ and

3. No payment is made by any subscriber;

(k) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance, if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state;

(l) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act;

(m) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock;

(n) Any transaction incident to a right of conversion or a statutory or judicially-approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(o) Any transaction by a person who does not control, and is not controlled by or under common control with, the issuer if:

1. The transaction is at a price reasonably related to the current market price;~~[,]~~

2. The security is registered under Section 12 of the Securities Exchange Act of 1934 and the issuer files reports pursuant to Section 13 of that act;~~[,]~~ and

3. Copies of such federal registration statements, reports, forms or exhibits as the commissioner may by rule or order require are filed with the commissioner;

(p) Any transaction by a person who may control, or may be controlled by or under common control with, the issuer if:

1. The transaction is at a price reasonably related to the current market price;~~[,]~~

2. The security is registered under Section 12 of the Securities Exchange Act of 1934 and the issuer files reports pursuant to Section 13 of that act;~~[, and]~~

3. Copies of such federal registration statements, forms, reports, or exhibits as the commissioner may by rule or order require are filed with the commissioner;~~[,]~~ and

4. Such sales by any such person comply with such rules as the commissioner may prescribe; ***or***

(q) Any transaction for which the commissioner by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors.

(2) The commissioner may by order deny or revoke the exemption specified in KRS 292.400(6), (9), ***or***~~[(11),]~~ (12)~~[, or (13)]~~ or in this section with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this subsection. Upon entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen (15) days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order to extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this chapter by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order. In any proceeding under this chapter, the burden of proving an exemption from a definition

is upon the person claiming it.

Section 14. KRS 292.415 is amended to read as follows:

(1) Before any security may be issued as an exempt security under subsections (9) ***or***[~~,~~] (12) ***of Section 12 of this Act***[~~, (13), or (14) of KRS 292.400, or offered for sale or sold as an exempt transaction under KRS 292.410(1)(i) or (k)~~], a claim of exemption must first be filed with the commissioner and the commissioner by order shall not have determined that the exemption is unavailable within the next ten (10) full business days. A claim of exemption filed under this section shall be in such form and contain such information as the commissioner by rule or order requires and each offering shall be effective for a maximum of twelve (12) consecutive months unless the commissioner by rule or order extends such period of time, not to exceed five (5) years.

(2) ***The issuer may make offers, but not sales, before and during the ten (10) business day period required by subsection (1) of this section, if:***

(a) Each prospective purchaser is advised in writing that the offer is preliminary and subject to material change; and

(b) No enforceable offer to purchase the securities may be made by a prospective purchaser, and no consideration in any form may be accepted or received, directly or indirectly, from a prospective purchaser, before the termination of the ten (10) business day period and any order disallowing the exemption has been vacated.

The commissioner may, by rule or order, prohibit offers by a particular class of issuers before the expiration of the ten (10) business day period required by subsection (1) of this section, or may require issuers to comply with additional conditions and requirements prior to making offers before the expiration of the period, if appropriate in furtherance of the intent of this chapter[~~For every claim of exemption filed with the commissioner there shall be paid to the commissioner a filing fee of one hundred dollars ($100), except that for a claim of exemption filed under subsection (9) of KRS 292.400 the filing fee is one-tenth of one percent (0.1%) of the maximum aggregate offering price at which the securities are to be offered in this state, but the fee shall in no case be less than one hundred dollars ($100) or more than five hundred dollars ($500). The commissioner shall have authority to amend or rescind under this subsection such filing fees by rule or order if the commissioner determines that such fee is excessive under the circumstances~~].

(3) [~~Any person who fails to comply with this section shall be liable for a fee in the amount of five (5) times the initial filing fee and~~]The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of an exemption, if he finds that the order is in the public interest and that any security has been or is about to be offered or sold in violation of this section. If the commissioner finds it appropriate in the public interest or necessary for the protection of investors, the commissioner may order any issuer in violation of this section to make an offer of rescission.

(4) Failure by any person to file a claim of exemption under this section shall not give rise to a private right of action under KRS 292.330(1), 292.340, or 292.480 which would not otherwise be available under the provisions of this chapter.

(5) Any person who fails to file a claim of exemption under this section, unless he does so intentionally, shall not be subject to KRS 292.991.

Section 15. KRS 292.420 is amended to read as follows:

(1) In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(2) The commissioner may require any person, who is selling or offering for sale or who is about to sell or offer for sale or who has sold or offered for sale any security within this state, to file a statement of the claim of exemption, if any, upon which such person is relying, and if any time, in the opinion of the commissioner, the information contained in such statement filed is misleading, incorrect, inadequate, or fails to establish the right of exemption, he may require such person, agent, or investment adviser to file such information as may in his opinion be necessary to establish the claimed exemption. The refusal to furnish information as required by order of the commissioner pursuant to the provisions of this subsection, within a reasonable time to be fixed by the commissioner, shall be proper ground for the entry of an order by the commissioner suspending and/or canceling the registration of the broker-dealer, agent or investment adviser.

(3) The commissioner shall have authority at all times to consider and determine whether any proposed sale, transaction, issue, or security is entitled to an exemption or an exception from the definition accorded by this chapter, provided, however, that the commissioner in his discretion may decline to exercise such authority as to any proposed sale, transaction, issue, or security. Any interested party desiring the commissioner to exercise such authority shall submit to the commissioner a verified statement of all material facts relating to the proposed sale, transaction, issue, or security, which verified statement shall be accompanied by a request for a ruling as to the particular exemption or exception from definition, together with a filing fee of ***two hundred fifty dollars ($250)***[~~one hundred dollars ($100)~~]. After such notice to interested parties as the commissioner shall deem proper and after a hearing, if any, the commissioner may enter an order finding the proposed sale, transaction, issue, or security entitled or not entitled to the exemption or the exception

from definition as claimed. An order so entered, unless an appeal be taken therefrom in the manner prescribed in this chapter, shall be binding upon the commissioner, provided that the proposed sale, transaction, issue, or security when consummated or issued conforms in every relevant and material particular with the facts as set forth in the verified statement as submitted.

Section 16. KRS 292.430 is amended to read as follows:

(1) Every applicant for registration as a broker-dealer***,***[~~or~~] agent***, investment adviser, or investment adviser representative*** under this chapter and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the commissioner, in such form as he by rule prescribes, an irrevocable consent appointing the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:

(a) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his last address on file with the commissioner; and

(b) The plaintiff's affidavit of compliance with this ***subsection***[~~section~~] is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) ***Every issuer of a covered security and every covered adviser who makes a notice filing with Kentucky under this chapter shall file with the commissioner, in the form as prescribed by administrative regulation, an irrevocable consent appointing the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, or administrator that arises under this chapter or under any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed a consent in connection with a previous notice filing need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:***

(a) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his last address on file with the commissioner; and

(b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within the time as the court allows.

(3) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and he has not filed a consent to service of process under subsection (1) ***or (2) of this section*** and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct shall be considered equivalent to his appointment of the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor executor or administrator which grows out of that conduct and which is brought under this chapter or any rule or order hereunder, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the commissioner, and it is not effective unless:

(a) The plaintiff, who may be the commissioner, in a suit, action, or proceeding instituted by him forthwith sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Section 17. KRS 292.450 is amended to read as follows:

(1) Neither the fact that an application for registration under KRS 292.330 or a registration statement under KRS 292.350, 292.360, or 292.370 has been filed, nor the fact that a person or security is effectively registered, constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading.

(2) Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the commissioner has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with this section.

(3) Neither the fact that a notice filing for a covered security or for a covered adviser has been filed, nor the fact that the person, security, or transaction is registered or exempt from registration, constitutes a finding by the commissioner

that any document filed under this chapter is true, complete, and not misleading or that the person, security, or transaction is entitled to claim an exemption.

(4) It is unlawful to make or cause to be made to any prospective purchaser, customer, or client any representation inconsistent with this section.

Section 18. KRS 292.460 is amended to read as follows:

(1) The commissioner in his discretion:

(a) May make such public or private investigations within or outside of this state as he deems necessary to determine whether any registration should be granted, denied, or revoked or whether any person has violated or is about to violate any provision of this chapter or any rule or order ***under this chapter***[~~hereunder~~], or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder;

(b) May require or permit any person to file a statement in writing, under oath or otherwise as the commissioner may determine, as to all the facts and circumstances concerning the matter to be investigated; ***or***[~~and~~]

(c) May publish information concerning any violation of this chapter or any rule or order hereunder.

(2) For the purpose of any investigation or proceeding under this chapter, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) No person is excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 19. KRS 292.470 is amended to read as follows:

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order ***under this chapter***[~~hereunder~~], he may in his discretion bring ***any or all of the following remedies:***

(1) Issue a cease and desist order, with or without a prior hearing, appealable to Franklin Circuit Court, against the person or persons engaged in the prohibited activities directing that person or persons to cease and desist from illegal activity. In order to issue an order without a prior hearing, the commissioner must find that the delay in issuing a final cease and desist order will cause harm to the public;

(2) An action in ***the Franklin Circuit Court or*** any ***other*** court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order ***under this chapter***[~~hereunder~~]. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. ***The commissioner's findings of fact and conclusions of law contained in an order entered in compliance with subsection (3) of this section, if supported by substantial evidence and if not unlawful and unreasonable, shall be conclusive and shall not be disturbed by the court in granting relief sought in compliance with this subsection. In addition, upon a proper showing by the commissioner, the court may enter an order of rescission, restitution, or disgorgement directed to any person who has engaged in any act constituting a violation of this chapter or any rule or order under this chapter.*** The commissioner may not be required to post a bond***; or***

(3) Issue a final order, after notice and a hearing, containing findings of fact and conclusions of law, directing any person or persons found to have engaged in, or about to be engaged in, activity that constitutes a violation of this chapter or any rule or order under this chapter:

(a) To cease and desist from the activity;

(b) To offer rescission to purchasers of securities offered or sold in violation of this chapter or any rule or order under this chapter and to honor the offer;

(c) To make restitution to purchasers of securities offered or sold in violation of this chapter or any rule or order under this chapter;

(d) To disgorge amounts received pursuant to the securities offered or sold in violation of this chapter or any rule or order under this chapter;

(e) To perform any other reasonable mandates directed by the commissioner pursuant to an appropriate remedy fashioned by the commissioner and reasonably calculated to make the person or persons aggrieved by the violation or violations of this chapter or any rule or order under this chapter whole; or

(f) To pay fines assessed under subsection (14) of Section 22 of this Act and costs assessed under subsection (15) of Section 22 of this Act.

Section 20. KRS 292.480 is amended to read as follows:

(1) Any person, who offers or sells a security in violation of this chapter or of any rules ***or orders***[~~and regulations~~] promulgated hereunder or offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in the light of the circumstances under which they are made not misleading (the buyer not knowing of the untruth or omission) and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at ***the legal rate***[~~six percent (6%) per annum~~] from the date of payment costs and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer is disposed of it and (b) interest at ***the legal rate***[~~six percent (6%)~~] per annum from the date of disposition.

(2) ***Any person who purchases a security in violation of this chapter or of any administrative regulations or orders promulgated under this chapter or who purchases a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in light of the circumstances under which they are made not misleading, the seller not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission is liable to the person selling the security to him, who may sue either at law or in equity for:***

(a) A return of the security, together with any income received by the purchaser on the security, costs, and reasonable attorney's fees, upon a tender of the full amount of the consideration received for the security; or

(b) If the purchaser no longer owns the security, the difference between the fair value of the security at the date of the transaction and the consideration received for the security, together with interest on the difference at the legal rate compounded annually from the date of the transaction, and costs and reasonable attorney's fees.

(3) For purposes of paragraph (b) of subsection (2) of this section, when the purchaser no longer owns the security, if a seller seeking relief under paragraph (b) of subsection (2) of this section offers and presents admissible evidence of the highest intermediate value of the subject security as of some specific date occurring within a reasonable period of time after the date of the sale of the security but no later than the date an action under paragraph (b) of subsection (2) of this section is filed, or of the total consideration received by the purchaser in a subsequent sale of that security, it shall be presumed until rebutted by a preponderance of evidence to the contrary that the value or sale price, as applicable, is the fair value of the security at the date of the transaction as those terms are used in paragraph (b) of subsection (2) of this section to measure damages. For purposes of subsections (1) and (2) of this section and all other provisions of this chapter, statements and omissions may be either oral or written.

(4) Every person who directly or indirectly controls a seller ***or purchaser*** liable under subsection (1) ***or (2) of this section***, every partner, officer or director (or person occupying a similar status or performing similar functions) or employee of[~~ such~~] a seller ***or purchaser*** who materially aids in the sale ***or purchase***, and every broker-dealer or agent who materially aids in the sale ***or purchase*** is also liable jointly and severally with and to the same extent as the seller ***or purchaser***, unless the nonseller ***or nonpurchaser*** who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(5)[~~(3)~~] Any tender specified in this section may be made at any time before entry of judgment. Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant. No person may sue under this section more than three (3) years after the ***occurrence of the act, omission, or transaction constituting a violation of this chapter***[~~contract of sale~~]. No person may sue under this section***:***

(a) If the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid together with interest at ***the legal rate***[~~six percent (6%) per annum~~] from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt***;***[~~, or~~]

(b) If the buyer received[~~ such~~] an offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within thirty (30) days of its receipt***; or***

(c) If paragraph (b) of subsection (2) of this section applies, and if the seller received a written offer before suit equal to the difference between the greater of the highest intermediate value of the security or the consideration received by the purchaser upon disposal of the security and the consideration received by the seller for the security, together with interest on the difference at the legal rate from the date of the transaction; or if paragraph (a) of subsection (2) of this section applies, and if the seller received a written offer to return the security together with any income received by the purchaser on the security; and in either case he failed to accept the offer within thirty (30) days of its receipt.

(6)[~~(4)~~] No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any[~~ such~~] contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(7) The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Section 21. KRS 292.490 is amended to read as follows:

Any person aggrieved by a final order of the commissioner may obtain a review of the order by filing in ***accordance with KRS Chapter 13B in*** the Franklin Circuit Court, within ***thirty (30)***[~~sixty (60)~~] days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the commissioner, and thereupon the commissioner shall certify and file in court a copy of the filing, testimony, and other evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the commissioner or there were reasonable grounds for failure to do so. The findings of the commissioner as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such conditions as the court may consider proper. The commissioner may modify his findings as to the facts, by reason of the additional evidence so taken; and he shall file any modified or new findings, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the commissioner's order. An appeal may be taken from the judgment of the Franklin Circuit Court on any such appeal to the Court of Appeals on the same terms and conditions as an appeal is taken in civil actions.

Section 22. KRS 292.500 is amended to read as follows:

(1) The administration of the provisions of this chapter shall be under the Department of Financial Institutions.

(2) It is unlawful for the commissioner or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. ***Except as provided in subsection (18) of this section,*** no provision of this chapter authorizes the commissioner or any of his officers or employees to disclose any confidential information except among themselves or when necessary or appropriate in an administrative hearing or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of his officers or employees.

(3) The commissioner may from time to time promulgate, amend, and repeal administrative regulations, forms, and orders as are necessary to carry out the provisions of this chapter, including administrative regulations and forms governing registration statements, applications, ***notice filings,*** and reports and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of administrative regulations and forms, the commissioner may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.

(4) No administrative regulation, form, or order may be promulgated, amended, or repealed unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provision of this chapter. In promulgating administrative regulations and forms, the commissioner may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statement, applications, ***notice filings,*** and reports whenever practicable.

(5) The commissioner may by administrative regulation or order prescribe the form and content of financial statements required under this chapter and the circumstances under which consolidated financial statements shall be certified by certified public accountants. All financial statements shall be prepared in accordance with generally-accepted accounting

standards.

(6) All administrative regulations and forms of the commissioner shall be published.

(7) No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any administrative regulation, form, or order of the commissioner, notwithstanding that the administrative regulation, form, or order may later be amended or repealed or be determined by judicial or other authority to be invalid for any reason.

(8) A document is filed when it is received by the commissioner or when the commissioner receives confirmation that a document has been filed pursuant to ***Sections 5, 7, 8, and 11 of this Act***[~~KRS 292.330~~].

(9) Every administrative hearing shall be conducted in accordance with KRS Chapter 13B and the provisions of this chapter, and shall be public unless the commissioner in his discretion grants a request joined in by all the respondents that the hearing be conducted privately.

(10) The commissioner shall keep a register of all applications for registration and registration statements ***and notice filings*** which are or have ever been effective under this chapter and all denial, suspension, or revocation final orders which have ever been entered under this chapter. The register shall be open for public inspection.

(11) The information contained in or filed with any registration statement, application, ***notice filings,*** or report may be made available to the public under administrative regulations as the commissioner may promulgate.

(12) Upon request and at reasonable charges as he prescribes, the commissioner shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In any administrative hearing or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(13) The commissioner in his discretion may honor requests from interested persons for interpretative opinions.

(14) The commissioner may assess civil fines against any person who violates any provision of this chapter or any rule or order under this chapter. Fines imposed under this subsection shall not be less than five hundred dollars ($500) for each violation.

(15) In addition to any fines levied under subsection (14) of this section, the commissioner may also assess the costs of any investigation, including attorney's fees incurred as a result of bringing enforcement actions under the provisions of this chapter and costs of holding any hearing as a result of an enforcement action.

(16) If fines or costs assessed under this section are not paid, the commissioner may notify the Attorney General who shall promptly institute an action in the name of the Commonwealth of Kentucky, in the Franklin Circuit Court for the recovery of the fines or costs.

(17) The remedies provided by this section are not exclusive and may be sought and employed in any combination to enforce the provisions of this chapter. The remedies set forth in this section shall not prohibit or restrict the commissioner from participating in any way whatsoever with respect to any joint examination, investigation, enforcement action, settlement, or other legal or regulatory action with securities administrators of other jurisdictions, the Securities and Exchange Commission, any self-regulatory organization, or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. Accordingly, the commissioner may, at any time and in his sole discretion, share or cause to be shared by any employee of the department any information gained pursuant to an examination, investigation, filing, or from any other source, with other governmental agencies, jurisdictions, or governmental or self-regulating organizations or entities, to the extent the commissioner, in his sole discretion, deems that the sharing of information is or will be reasonably necessary or useful to the department or other agency in carrying out its regulatory responsibilities.

(18) The following materials, documentation, and other information are deemed to have been confidentially disclosed to the department and to be confidential information under the Kentucky Open Records Act and, specifically, the provisions of KRS 61.878(1)(b), to the extent described in this subsection and except as provided further in administrative regulation:

(a) Any materials, documentation, or other information provided to or otherwise obtained by the department during the course of a routine compliance examination of any broker-dealer, agent, investment adviser, or investment adviser representative; and

(b) Any materials, documentation, or other information provided to or otherwise obtained by the department from any other regulatory or governmental body, including but not limited to any other state securities regulator, the Securities and Exchange Commission, any self-regulatory organization, any state or federal criminal agency, and any criminal prosecutorial body, and which the other body expressly deems to be confidential.

Section 23. KRS 292.530 is amended to read as follows:

(1) The purpose of this chapter is to:

(a) Protect Kentucky investors by preventing investment fraud and related illegal conduct or, if this fraud or

illegal conduct has already occurred, remedying, where possible, the harm done to Kentucky investors through active implementation and application of this chapter's enforcement powers;

(b) Educate the investing public as to the best methods for making informed investment choices; and

(c) Assist companies in their legitimate attempts to raise capital and transact in securities in Kentucky.

(2) In addition, this chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and to coordinate the interpretation and administration of this chapter with the related federal regulation.

Section 24. KRS 292.540 is amended to read as follows:

All effective registrations under~~ ~~prior law and all conditions imposed upon such registrations remain in effect so long as they would have remained in effect if they had become effective under this chapter. They are considered to have been filed, entered or imposed under this chapter***, except to the extent the conditions apply to securities that are now covered securities***.

The Committee Substitute to **HB 112** is as follows:

AN ACT relating to securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 292.310 is amended to read as follows:

When used in this chapter, unless the context otherwise requires:

(1) "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities, ***except as otherwise provided in this chapter.***

(a) [~~but ~~]"Agent" does not include an individual who represents***:***

1. An issuer in:

a.[~~(a)~~] Effecting a transaction in a security exempted by subsections (1), (2), (3), (10), or (11) of KRS 292.400, or subsections (5), (9), or (12) thereof if no commission or other remuneration is received for the sale of such securities ***or effecting a transaction in a security exempted by subsection (15) of Section 12 of this Act even if commission or other remuneration is received for the sale of such security provided that the individual offers or sells no other security except securities exempted by subsection (15) of Section 12 of this Act;***[~~,~~]

b.[~~(b)~~] Effecting transactions exempted by KRS 292.410 unless otherwise required***;***[~~, or~~]

c. Effecting transactions in a covered security under Section 18(b)(3) or 18(b)(4)(d) of the Securities Act of 1933 if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in Kentucky;

d.[~~(c)~~] Effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state***; or***[~~. A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an agent only if he otherwise comes within this definition;~~]

e. Effecting other transactions if the individual primarily performs, or is intended primarily to perform upon completion of an offering of the issuer's own securities, substantial duties for or on behalf of the issuer otherwise than in connection with transactions in the issuer's own securities and the individual's compensation is not based, in whole or in part, upon the amount of purchases or sales of the issuer's own securities effected for the issuer; or

2. A broker-dealer in effecting transactions described in Section 15(h)(2) of the Securities Exchange Act of 1934.

(b) A partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions is an "agent" only if he otherwise comes within the definition in this subsection;

(2) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include:

(a) An agent, issuer, bank, savings institution, or trust company,

(b) ***A person that effects transactions in this state exclusively in securities exempted by subsection (15) of Section 12 of this Act;***

(c) A person who has no place of business in this state***:***

1. If he effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees***;***[~~,~~] or

2. [~~(c) A person who has no place of business in this state~~]If during any period of twelve (12) consecutive months he does not direct more than fifteen (15) offers to sell or to buy into this state in any manner to persons other than those specified in ***this*** paragraph[~~ (b)~~];

(3) "Certified" means, when used in regard to financial statements, examined and reported upon in accordance with generally accepted auditing standards with an opinion expressed by a certified public accountant;

(4) "Commissioner" means the commissioner of the Department of Financial Institutions ***or any individual employee of the Department of Financial Institutions expressly designated by order of the commissioner to act in the commissioner's place***;

(5) ***"Covered advisor" means any person who is registered under Section 203 of the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-3;***

(6) "Covered security" means any security that is a covered security under Section 18(b) of the Securities Act of 1933 or rules or regulations promulgated thereunder;

(7) "Department" means the Department of Financial Institutions of the Commonwealth of Kentucky;

(8) "Fraud," "deceit," and "defraud" are not limited to common-law deceit;

(9)[~~(6)~~] "Guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(10)[~~(7)~~] "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

(a) A bank, savings institution, or trust company;

(b) A lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession;

(c) A broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them;

(d) A publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation;

(e) A person whose advice, analyses, or reports relate only to securities exempted by KRS 292.400(1);

(f) A person who has no place of business in this state if:

1. His only clients in this state are other investment advisers, ***covered advisers,*** broker-dealers, banks, savings institutions, trust companies, insurance companies,[~~ investment companies as defined in the Investment Company Act of 1940,~~] pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or

2. During any period of twelve (12) consecutive months he does not ***have***[~~direct business communications into this state in any manner to~~] more than five (5) clients other than those specified in subparagraph 1.***;***[~~, or~~]

(g) ***An investment adviser representative or a person excluded from the definition of investment adviser representative;***

(h) A person who is excluded from the definition of investment adviser under Section 202(a)(11) of the Investment Advisors Act of 1940;

(i) A covered adviser; or

(j) Such other persons not within the intent of this subsection as the ***commissioner***[~~director~~] may by rule or order designate;

(11) "Investment adviser representative" means:

(a) With respect to any investment adviser registered or required to be registered under this chapter, any partner, officer, director of, or a person occupying a similar status or performing similar functions, or other individual employed by or associated with an investment adviser, except clerical or ministerial personnel, who:

1. Makes any recommendations or otherwise renders advice regarding securities;

2. Manages accounts or portfolios of clients;

3. Determines which recommendation or advice regarding securities should be given;

4. Solicits, offers, or negotiates for the sale of or sells investment advisory services; or

5. Supervises employees who perform any of the functions described in this paragraph; and

(b) With respect to any covered adviser, any person defined as an investment adviser representative who has a place of business located in Kentucky, as those terms are defined in Rule 203A-3 of the Securities Exchange Act of 1934.

(12)[~~(8)~~] "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued, and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of an interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of distribution;

(13)[~~(9)~~] "Nonissuer" means not directly or indirectly for the benefit of the issuer;

(14)[~~(10)~~] "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(15) "Rule" or "regulation" means either or both administrative rules or administrative regulations promulgated by any governmental or other regulatory or self-regulatory entity, as the context requires;

(16)[~~(11)~~] "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt to offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer, of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(17)[~~(12)~~] "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended before or after January 1, 1961;

(18)[~~(13)~~] "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest in or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract ***under which an***[~~or variable annuity contract issued by any~~] insurance company ***promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period***;

(19)[~~(14)~~] "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico; ***and***

(20)[~~(15)~~] Nothing in this section shall be construed to affect the classification of property for ad valorem tax purposes.

Section 2. KRS 292.313 is amended to read as follows:

(1) KRS 292.320(1), 292.330(1), 292.340, 292.450, and 292.480 apply to persons who sell or offer to sell when an offer to sell is made in this state, or an offer to buy is made and accepted in this state.

(2) KRS 292.320(1), 292.330(1), and 292.450 apply to persons who buy or offer to buy when an offer to buy is made in this state, or an offer to sell is made and accepted in this state.

(3) For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received at the place to which it is directed (or at any post office in this state in the case of a mailed offer).

(4) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance is communicated to the offeror in this state and has not previously been communicated to the offeror, orally or in writing, outside this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed (or at any post office in this state in the case of a mailed acceptance).

(5) An offer to sell or to buy is not made in this state when the publisher circulates or there is circulated on his behalf in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds (2/3) of its circulation outside this state during the past twelve (12) months, or a radio or television program originating outside this state is received in this state.

(6) Subsections (2), (3), and (4) of KRS 292.320, as well as KRS 292.330(1) and 292.450 so far as investment advisers ***or investment adviser representatives*** are concerned, apply when any act instrumental in effecting prohibited conduct is done in this state, whether or not either party is then present in this state.

Section 3. KRS 292.320 is amended to read as follows:

(1) It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

(2) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise:

(a) To employ any device, scheme, or artifice to defraud the other person; or

(b) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(3) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing:

(a) That the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(b) That no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(c) That the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

(4) Paragraph (a) of subsection (3) of this section does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date.[~~ Paragraph (a) of subsection (3) of this section shall not prohibit investment advisers to investment companies as defined in the Investment Company Act of 1940 from charging any incentive compensation fee not in violation of the Investment Company Act of 1940 or the rules and regulations promulgated by the Securities and Exchange Commission thereunder, provided that the commissioner shall approve in writing the incentive compensation fee arrangement as being fair and reasonable.~~] "Assignment", as used in paragraph (b) of subsection (3) of this section includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one (1) or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

Section 4. KRS 292.325 is amended to read as follows:

(1) Except as otherwise provided in this section, the commissioner may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, radio, television, or other advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser, as part of a registered offering or as a part of an exemption offering required to be filed under KRS 292.415.

(2) The provisions of this section shall not require a covered adviser to file with the commissioner any documents listed in subsection (1) of this section or any document, except a prospectus, relating to a covered security.

Section 5. KRS 292.330 is amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or agent, unless he is registered under this chapter. It is unlawful for any broker-dealer or issuer to employ an agent unless the agent is registered. ***It is unlawful for any investment adviser that is required to be registered under this chapter to employ an investment adviser representative unless the investment adviser representative is registered under this chapter.*** It is unlawful for any person to transact business in this state as an investment adviser unless:

(a) He is so registered under this chapter***;***[~~,~~] or

(b) He is registered as a broker-dealer under this chapter[~~, or~~

~~(c) His only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies~~].

(2) ***It is unlawful for any covered adviser to transact business in this state unless:***

(a) The person has made a notice filing with the commissioner consisting of a copy of those documents that have been filed by the covered adviser with the U.S. Securities and Exchange Commission and that the commissioner by rule or order requires to be filed together with consent to service of process and the fee prescribed in subsection (11)(b) of this section;

(b) The person is registered as a broker-dealer under this chapter;

(c) The person's only clients are investment companies as defined in the Investment Company Act of 1940, or insurance companies; or

(d) The person is excluded from the definition of investment adviser under subsection (10)(a) to (h) and (j) of Section 1 of this Act.

It is unlawful for an investment adviser representative to be employed by a covered adviser who is required to make a notice filing with the commissioner unless the investment adviser representative is registered under this chapter.

(3) A broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** may apply for registration by filing with the commissioner or the commissioner's designee an application together with a consent to service of process pursuant to KRS 292.430 and payment of the fee prescribed in subsection ***(11)***[~~(10)~~].

(a) Registration of a broker-dealer automatically constitutes registration of any agent who is a partner, officer, or director or a person occupying a similar status or performing similar functions (except any partner, officer, or director or other such person whose registration as an agent is denied, suspended, or revoked under subsection ***(13)***[~~(12)~~]) without the filing of applications for registration as agents or the payment of fees for registration as agents.

(b) Except for any partner, officer, director, or other person whose registration as an investment adviser representative is denied, suspended, or revoked under subsection (13) of this section, registration of an investment adviser automatically constitutes registration of any investment adviser representative who is a partner, officer, director, or a person occupying a similar status or performing similar functions, without the filing of applications for registration as investment adviser representatives or the payment of fees for registration, as investment adviser representatives.

(c) The ***registration*** application shall contain whatever information the commissioner requires concerning such matters as:

1.[~~(a)~~] The applicant's form and place of organization;

2.[~~(b)~~] The applicant's proposed method of doing business;

3.[~~(c)~~] The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser; and in the case of an investment adviser, the qualifications and business history of an employee;

4.[~~(d)~~] Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

5.[~~(e)~~] The applicant's financial condition and history.

(4)[~~(3)~~] If no denial order is in effect and no proceeding is pending under subsection ***(13)***[~~(12)~~], registration becomes effective at noon of the thirtieth day after an application is filed***, except as otherwise noted in this subsection:***[~~.~~]

(a) The commissioner may specify an earlier effective date and he may by order defer the effective date until noon of the thirtieth day after the filing of any amendment.

(b) The commissioner may by rule establish a procedure for transfer of an agent ***or an investment adviser representative*** whereby registration may become effective prior to the filing of an application; but any registration so transferred shall not be effective for more than thirty (30) days, unless within that thirty (30) days a properly completed application is filed.

(c) The thirtieth day effective day is tolled if, before 5 p.m. EST of the thirtieth day, the commissioner notifies the applicant that the application is incomplete or that he intends to deny the application, pending the completion of the application or a hearing and final order on the intent to deny the application or the waiver of a hearing through the failure to request a hearing with fifteen (15) days of receiving notice of the intent to deny the application, as applicable.

(5)[~~(4)~~] The commissioner may require as a condition of registration that the applicant (and, in the case of a corporation or partnership, the officers, directors, or partners) pass a written examination as evidence of knowledge of the securities business.

(6)[~~(5)~~] ***Subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940,*** the commissioner may by rule require the existence and maintenance of a minimum liquid net capital for registered broker-dealers and investment advisers and a minimum ratio between net capital and aggregate indebtedness, or both.

(7)[~~(6)~~] ***Subject to the limitations of Section 15 of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940,*** the commissioner may by rule require registered broker-dealers, agents, and investment advisers to post surety bonds in an amount up to $25,000, and may determine their conditions, except under this subsection that no such bond may be required of any registrant whose net capital exceeds $100,000. An appropriate deposit of cash or securities shall be accepted in lieu of any required surety bond. Every surety bond shall provide for suit thereon by any person who has a cause of action under KRS 292.480, and every such bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within ***three (3)***[~~two (2)~~] years after ***the later of*** the sale or other act upon which it is based ***or the discovery of the sale or act***.

(8)[~~(7)~~] ***Subject to the limitations of Section 15 of the Securities Exchange Act of 1934,*** the commissioner may by rule require registered broker-dealers to carry fidelity bonds, covering its agents, general partners, and officers, in such form, covering such risks, and in such amounts (not exceeding $250,000) as he deems necessary for the protection of the public; and he may by rule require registered broker-dealers to furnish satisfactory evidence that they have such bonds.

(9)[~~(8)~~] Every registration of a broker-dealer, agent***,***[~~ or~~] investment adviser***, and investment adviser representative and every notice filing*** shall be effective until December 31 of the year of registration ***or notice*** unless the commissioner by rule extends or lessens ***the***[~~such~~] registration ***or notice period***[~~and~~] may be renewed as hereinafter provided. The commissioner may by rule increase or reduce the registration fee ***or notice filing fee*** set forth in subsection ***(11)***[~~(10)~~] of this section should ***the***[~~such~~] registration period ***or notice period*** be extended or lessened.

(a) The registration of an agent is not effective during any period when he is not associated with an issuer or a registered broker-dealer specified in his application or a notice filed with the commissioner or the commissioner's designee. When an agent begins or terminates a connection with an issuer or registered broker-dealer, the agent and the issuer or broker-dealer shall promptly notify the commissioner or the commissioner's designee.

(b) The registration of an investment adviser representative is not effective during any period when he is not associated with an investment adviser specified in his application or with a covered adviser specified in a notice filed with the commissioner or the commissioner's designee. When an investment adviser representative begins or terminates a connection with an investment adviser, the investment adviser representative and the investment adviser shall promptly notify the commissioner or the commissioner's designee. When an investment adviser representative begins or terminates a connection with a covered adviser, the investment adviser representative shall notify the commissioner or the commissioner's designee.

(10)[~~(9)~~] Registration of a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** may be renewed by filing with the commissioner or the commissioner's designee prior to the expiration thereof an application containing ***the***[~~such~~] information[~~ as~~] the commissioner may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** filed with the commissioner or the commissioner's designee by the applicant, payment of the prescribed fee and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety (90) days. ***A notice filing by a covered adviser may be renewed by filing with the commissioner or the commissioner's designee a notice filing consisting of any documents filed with the U.S. Securities and Exchange Commission as the commissioner may require by rule or order.*** A registered broker-dealer or investment adviser may file an application for registration of a successor ***and a covered adviser may file a notice filing for a successor***, whether or not the successor is then in existence, for the unexpired portion of the year without payment of any fee.

(11) (a)[~~(10)~~] The fee for initial or renewal registration shall be one hundred twenty dollars ($120) for a broker-dealer, one hundred dollars ($100) for an investment adviser, fifty dollars ($50) for an agent, ***fifty dollars ($50) for an investment adviser representative,*** and fifty dollars ($50) for transfer of an agent ***or investment adviser representative***, none of which fees shall be refundable.

(b) The fee for notice filings shall be two hundred dollars ($200) for a covered adviser.

(12)[~~(11)~~] (a) Every registered broker-dealer and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner by rule prescribes. All records required shall be preserved for three (3) years unless the commissioner by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the commissioner, be made available at any time for examination by him either in the principal office of the registrant or by production of exact copies thereof in this state. ***If a broker-dealer is registered with the U.S. Securities and Exchange Commission, the books and records required by this section are limited to those that the Securities Act of 1934 requires the broker-dealer to maintain. If an investment adviser has his principal place of business in another state, the requirements of this section shall be limited to those books and records requirements of that state, provided the adviser is registered in that state and in compliance with its recordkeeping requirements.***

(b) Every registered broker-dealer and investment adviser shall file such reports as the commissioner by rule prescribes. ***If a broker-dealer is registered with the U.S. Securities and Exchange Commission, the reports required by this section are limited to those required under the Securities Act of 1934. If an investment adviser has his principal place of business in another state, the requirements of this section shall be limited to the reporting requirements of that state, provided the adviser is registered in that state and in compliance with its reporting requirements.***

(c) If the information contained in any document filed with the commissioner or the commissioner's designee is or becomes inaccurate or incomplete in any material respect, the broker-dealer ***or investment adviser, as applicable,*** shall promptly file a correcting amendment. ***In the case of a covered adviser, the adviser shall file only copies of those documents required to be filed with the Securities and Exchange Commission.***

(d) The commissioner may make periodic examinations, within or without this state, of each broker-dealer and investment adviser at such times and in such scope as he determines. These examinations may be made without prior notice to the broker-dealer or investment adviser. The expense reasonably attributable to any such examination shall be paid by the broker-dealer or investment adviser whose business is examined but the expense so payable shall not exceed an amount which the commissioner by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the commissioner, insofar as he deems it practicable in administering this subsection, may cooperate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

(e) The commissioner may by rule prohibit unreasonable charges, profits, commissions, or other compensation of broker-dealers and investment advisers.

(f) The commissioner may prescribe rules for the conduct of business by broker-dealers and investment advisers which he finds appropriate in the public interest and for the protection of investors.

(g) The commissioner may enter into an arrangement, agreement, or other working relationship with federal, other state, and self-regulatory authorities whereby documents may be filed and maintained in a central depository system with the National Association of Securities Dealers or other agencies or authorities. It is the intent of this paragraph that the commissioner be provided power to reduce duplication of filings, reduce administrative costs, and establish uniform procedures, forms, and administration with the states and federal authorities. The commissioner may permit initial and renewal registration filing~~s~~ required under this chapter to be filed with the Securities and Exchange Commission, the National Association of Securities Dealers, or other similar authorities. The commissioner may accept uniform securities examinations or other procedures designed to implement a uniform national securities regulatory system or facilitate common practices and procedures among the states.

(13)[~~(12)~~] (a) The commissioner may by order deny, suspend, or revoke registration of any broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative, or bar or censure any registrant or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant, from employment with a registered broker-dealer or investment adviser, or restrict or limit a registrant as to any function or activity of the business for which registration is required in the Commonwealth of Kentucky,*** if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer, or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

1. Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;
2. Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor law or any rule or order under this chapter or a predecessor law;
3. Has been convicted, within the past ten (10) years, of any misdemeanor involving a security or any aspect of the securities business, or any felony, or has pending against him any such criminal charge;
4. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

5. Is the subject of an order of the commissioner denying, suspending, or revoking registration as a broker-dealer, agent,~~[or]~~ investment adviser***, or investment adviser representative***;

6. ***Is the subject of any of the following orders that are currently effective and were issued within the last five (5) years:***

    a. An order by the securities agency or administrator of another state or Canadian province or territory, or by the Securities and Exchange Commission, entered after notice and opportunity for hearing, denying, suspending, limiting or revoking the person's license as a broker-dealer, sales representative, or investment adviser, or the substantial equivalent of those terms;

    b. An order of a self-regulatory organization finding a violation of federal law or a rule of the self-regulatory organization;

    c. A United States Postal Service fraud order;

    d. A cease and desist or other administrative order entered after notice and opportunity for hearing by the commissioner, the securities agency or administrator of another state, or a Canadian province or territory, the Securities and Exchange Commission, or the Commodity Futures Trading Commission; or

    e. An order by the Commodity Futures Trading Commission denying, suspending, or revoking registration under the Commodity Exchange Act~~[Is the subject of an order entered within the past five (5) years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer or agent, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States Post Office fraud order; but:~~

    ~~a. The commissioner may not institute a revocation or suspension proceeding under this paragraph more than one (1) year from the date of the order relied on; and~~

    ~~b. He may not enter any order under this paragraph on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section]~~;

7. Has engaged in dishonest or unethical practices in the securities business;

8. Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the commissioner may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;~~[or]~~

9. Is not qualified on the basis of such factors as training, experience, or knowledge of the securities business, except as provided in paragraph (b) below; or the commissioner may by order, deny, suspend, or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant:

    a. Has failed reasonably to supervise his agents if he is a broker-dealer or his employees ***or investment adviser representatives*** if he is an investment adviser; or

    b. Has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause, and he shall vacate any such order when the deficiency has been corrected.

The commissioner may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next thirty (30) days***; or***

10. Has violated the law of a foreign jurisdiction governing or regulating any aspect of the business of securities or banking; or within the past five (5) years, has been the subject of an action of a securities regulator or a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, or investment adviser representative or is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of the securities regulator of a state, federal, or foreign jurisdiction suspending or expelling the person from membership in the exchange or self-regulatory organization.

(b) The following provisions govern the application of subparagraph 9. of paragraph (a) of this subsection:

1. The commissioner may not enter an order against a broker-dealer on the basis of the lack of qualification of any person other than the broker-dealer himself if he is an individual or an agent of the broker-dealer;

2. The commissioner may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than the investment adviser himself if he is an individual or any other

person who represents the investment adviser in doing any of the acts which make him an investment adviser;

3. The commissioner may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both;
4. The commissioner shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer;
5. The commissioner shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser ***or an investment adviser representative***, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser ***or an investment adviser representative***;
6. The commissioner may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as ***investment adviser representatives and*** persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser.

(c) The commissioner may by order summarily postpone ***an application for registration*** or suspend ***a*** registration pending final determination of any proceeding under this section***. A summary suspension of an existing registration shall only be made based upon a finding by the commissioner that such action is in the public interest and that there is substantial evidence of a violation of law that constitutes an immediate danger to the public. KRS 13B.125 shall apply to the entry of a summary suspension of a registration. An appeal of a summary suspension shall address only the necessity of a summary action and shall not constitute an appeal of the merits of the underlying violation of the law***. Upon the entry of the order, the commissioner shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(d) If the commissioner finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, agent,[~~or~~] investment adviser***, or investment adviser representative***, or is subject to an adjudication of mental disability or to the control of a conservator or guardian, or cannot be located after reasonable search, the commissioner may by order cancel the registration or application.

(e) Withdrawal from registration as a broker-dealer, agent,[~~ or~~] investment adviser***, or investment adviser representative*** becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under subparagraph 2. of paragraph (a) of this subsection within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective. ***A notice filing may be withdrawn or terminated by providing notice of the withdrawal or termination, as the case may be, to the commissioner; the withdrawal or termination is effective upon receipt by the commissioner of the notice.***

(f) No order may be entered under any part of this section except the first sentence of paragraph (c) of this subsection without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is an agent ***or representative***), opportunity for hearing, and written findings of fact and conclusions of law.

(14) Notwithstanding subsection (1) of this section, any broker-dealer, agent, investment adviser or investment adviser representative, or transaction or class of transactions by such persons, for which the commissioner expressly by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors shall be exempt from registration under this section. The commissioner may require that persons exempted from registration under this provision file such forms and information for notice purposes and be bound by one (1) or several provisions of this section as the commissioner deems necessary and appropriate in the public interest or for the protection of investors and the commissioner may impose filing fees in connection therewith, provided however, that the amount of the fee shall not exceed the fee which would be due in the event the exempt person were required to obtain registration.

Section 6. KRS 292.340 is amended to read as follows:

It is unlawful for any person to offer or sell any security in this state, ***unless the security is registered under this chapter, or the security or transaction is exempt under this chapter, or the security is a covered security***[~~except securities exempt under KRS 292.400 or when sold in transactions exempt under KRS 292.410, unless such security is registered under this chapter~~].

Section 7. KRS 292.360 is amended to read as follows:

(1) Any security for which a registration statement[~~ has been filed~~] under the Securities Act of 1933 ***or an offering statement under Regulation A of the Securities Act of 1933 has been filed with the Securities and Exchange Commission*** in connection with the same offering may be registered by coordination.

(2) A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in KRS 292.380, and, if required under KRS 292.430, a consent to service of process meeting the requirements of that section:

(a) ***One(1) copy***[~~Three (3) copies~~] of the latest form of prospectus ***or offering circular*** filed under the Securities Act of 1933 ***or Regulation A promulgated under that Act*** together with all amendments thereto;

(b) The amount of securities to be offered in this state;

(c) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

(d) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;

(e) If the commissioner by rule or otherwise requires, a copy of the articles of incorporation and bylaws (or their substantial equivalents) ***of the issuer*** currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(f) If the commissioner requests, any other information, or copies of any other documents, filed under the Securities Act of 1933 ***or Regulation A promulgated under that Act***; and

(g) An undertaking to forward promptly ***to the commissioner*** all amendments to the federal registration statement ***or offering statement***, other than an amendment which merely delays the effective date.

(3) A registration statement under this section automatically becomes effective ***with the commissioner*** at the moment the federal registration statement ***or offering statement*** becomes effective ***or is qualified,*** if all the following conditions are satisfied:

(a) No stop order is in effect and no proceeding is pending under KRS 292.390;

(b) The registration statement has been on file with the commissioner for at least ten (10) days; and

(c) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two (2) full business days or such shorter period as the commissioner permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the commissioner by telephone***,***[~~ or~~] telegram***, or other electronic means*** of the date and time when the federal registration statement ***or offering statement*** became effective ***or was qualified*** and the content of the price amendment, if any, and shall promptly file a post-effective amendment, containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

(4) Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with subsection (3) of this section, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) ***of***[~~or~~] the issuance of the order. If the registrant proves compliance with the requirements of subsection (3) of this section as to notice and post-effective amendment, the stop order is void as of the time of its entry. The commissioner may by rule or otherwise waive either or both of the conditions specified in paragraphs (b) and (c) of subsection (3) of this section. If the federal registration statement ***or offering statement*** becomes effective ***or is qualified*** before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective ***with the commissioner*** as soon as all the conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement ***or offering statement*** is expected to become effective ***or to be qualified***, the commissioner shall promptly advise the registrant by telephone***,***[~~ or~~] telegram, ***or other electronic means,*** at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under KRS 292.390; but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

(5) Notwithstanding subsection (3) of this section, a registration statement under the Securities Act of 1933 that

becomes effective immediately upon filing with the Securities and Exchange Commission shall become effective under this section automatically at the time the registration statement, in the form filed with the Securities and Exchange Commission, is properly filed, along with the appropriate fee, with the commissioner.

Section 8. KRS 292.370 is amended to read as follows:

(1) Any security may be registered by qualification.

(2) A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in KRS 292.380 and, if required under KRS 292.430, a consent to service of process meeting the requirements of that section:

(a) With respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(b) With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five (5) years; the amount of securities of the issuer held by him as of a specified date within ninety (90) days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of any material interest in any material transaction with the issuer or any subsidiary effected within the past three (3) years or proposed to be effected by him or any of his associates as defined in the rules promulgated under the Securities Exchange Act of 1934;

(c) With respect to persons covered in paragraph (b): the remuneration paid to all such persons in the aggregate during the past twelve (12) months, and estimated to be paid during the next twelve (12) months, directly or indirectly, by the issuer (together with all predecessors, parents, and subsidiaries), and the amount paid and to be paid to each of those who received or are to receive more than fifteen thousand dollars ($15,000);

(d) With respect to any person not named in paragraph (b), owning of record, or beneficially, if known, ten percent (10%) or more of the outstanding shares of any class of equity security of the issuer: the information specified in paragraphs (b) and (c) other than his occupation;

(e) With respect to every promoter, not named in paragraphs (b) and (d), if the issuer was organized within the past three (3) years: the information specified in paragraphs (b) and (c), any amount paid to him by the issuer within that period or intended to be paid to him, and the consideration for any such payment;

(f) The capitalization and long-term debt (on both a current and pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, good will, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past two (2) years or is obligated to issue any of its securities;

(g) The kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price or the method by which it is to be computed; and any variation therefrom at which any portion of the offering is to be made to any persons or class of persons, other than the underwriters, with a specification of such person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately, cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering); the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter;

(h) The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated, and the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including good will) otherwise than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the cost basis or book value of the assets in the hands of the vendors (if they are officers, directors, partners, or controlling shareholders of the issuer), the names of any persons who have received commissions in connection with the acquisition and the amounts of any such commissions and any other expenses in connection with the acquisition (including the cost of borrowing money to finance the acquisition);

(i) A description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in paragraph (b), (c), (d), (e), (g), or (h) and by any person who holds or will hold ten percent (10%) or more in the aggregate of any such options;

(j) The dates of, parties to, and general effect, concisely stated, of every management, employment, or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two (2) years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer or any of its significant subsidiaries is a party and which may materially affect its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities);

(k) The states in which a registration statement or similar document in connection with the offering has been or is expected to be fil~~ed~~;

(l) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;

(m) A copy of any prospectus or circular intended as of the effective date to be used in connection with the offering;

(n) A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered;

(o) A signed or conformed copy of an opinion of counsel, as to the legality of the security being registered (with an English translation if it is in a foreign language), which shall state, in addition to such matters as the commissioner may request whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer, and whether or not the offering, as contemplated in the registration statement will comply with the requirements of any claimed exemption from the registration provisions of the Securities Act of 1933;

(p) ***Financial statements of the issuer that meet the following requirements:***

1. If the maximum proceeds to be received from the offering do not exceed two million dollars ($2,000,000), a balance sheet as of the end of the most recent fiscal year and, if the date of the most recent fiscal year end is more than four (4) months prior to the date of filing, a balance sheet as of a date within four (4) months prior to the filing of the registration statement; and statements of income for the last fiscal year preceding the date of the most recent balance sheet filed and for the period, if any, between the close of such fiscal year and the date of the most recent balance sheet filed. The balance sheet and income statement for the most recent fiscal year shall be audited if the financial statements have previously been audited for other purposes. Otherwise, all financial statements may be unaudited;

2. If the maximum proceeds to be received from the offering do not exceed five million dollars ($5,000,000), a balance sheet as of the end of the most recent fiscal year and, if the date of the most recent fiscal year end is more than four (4) months prior to the date of filing, a balance sheet as of a date within four (4) months prior to the filing of the registration statement; and statements of income, cash flows, and changes in stockholders equity for each of the two (2) fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of the fiscal years and the date of the most recent balance sheet filed. The balance sheet and statements of income, cash flows, and changes in stockholders equity for the most recent fiscal year shall be audited; all other financial statements may be unaudited;

3. If the maximum proceeds to be received from the offering exceed five million dollars ($5,000,000), a balance sheet as of the end of the most recent fiscal year and, if the date of the most recent fiscal year end is more than four (4) months prior to the date of filing, a balance sheet as of a date within four (4) months prior to the filing of the registration statement; and statements of income, cash flows, and changes in stockholders equity for each of the three (3) fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of the fiscal years and the date of the most recent balance sheet filed. The balance sheet and statements of income, cash flows, and changes in stockholders equity for the most recent fiscal year shall be audited; all other financial statements may be unaudited;

4. Notwithstanding the provisions of this paragraph, if the issuer has been in existence for less than one (1) fiscal year, the balance sheet shall be as of a date not more than four (4) months prior to the date of filing of the registration statement, and the statements of income, cash flows, and changes in stockholders equity shall be for the period from inception through the date of the balance sheet filed;

5. If any part of the proceeds of the offering is to be applied to the purchase of any business whose annual sales or revenues for its most recent fiscal year are in excess of twenty percent (20%) of the issuer's sales or revenues for its most recent fiscal year or involves the acquisition of assets in excess of twenty percent (20%) of the issuer's assets as of its most recent fiscal year end, except as

specifically exempted by the commissioner, the same financial statements which would be required if that business were the issuer shall be filed;

6. The commissioner, where necessary or appropriate in the public interest or for the protection of investors, may permit the omission of one (1) or more of the financial statements or the substitution of appropriate statements of comparable character, and may waive the requirement that the financial statements be audited; and

7. The financial statements required by this subsection shall be prepared as to form and content in accordance with generally accepted accounting principles[~~A balance sheet of the issuer as of a date not more than four (4) months prior to the date of filing of the registration statement, a balance sheet certified by an independent public or certified public accountant as of the close of the last fiscal year; statements of income, changes in stockholders equity and changes in financial position for each of the issuers three (3) fiscal years preceding the date of the most recent balance sheet filed and for the period, if any, between the close of the most recent of such fiscal years and date of the most recent balance sheet filed, or, if the issuer has been in existence for less than three (3) years, such statements for the period preceding the date of the most recent balance sheet filed, and if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if that business were the registrant. The statements of income, changes in stockholders equity, and changes in financial position shall be certified for the latest fiscal year presented~~];

(q) The written consent of an accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if the person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement; and

(r) Such additional information as the commissioner requires by rule or order.

Section 9. KRS 292.380 is amended to read as follows:

(1) Except as otherwise expressly provided in this chapter, a registration statement under this chapter becomes effective when the commissioner so orders. The commissioner may require as a condition of registration under this chapter that a prospectus containing any designated part of the appropriate information specified in this chapter be sent or given to each person to whom an offer is made before or concurrently with:

(a) The first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution;

(b) The confirmation of any sale made by or for the account of any such person;

(c) Payment pursuant to any such sale; or

(d) Delivery of the security pursuant to any such sale, whichever first occurs; but the commissioner shall accept for use under any such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations thereunder.

(2) A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. Any document filed under this chapter or a predecessor law within five (5) years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate. The commissioner may by rule or otherwise permit the omission of any item of information or document from any registration statement.

(3) The commissioner may require as a condition of registration by qualification or coordination that (a) the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount or (b) any security issued within the past three (3) years, or to be issued, to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be delivered in escrow. The commissioner may by rule or order determine the conditions of any escrow or impounding required hereunder. The commissioner shall not reject a depository solely because of location in another state. All securities delivered in escrow to the commissioner or some other depository satisfactory to him prior to January 1, 1968, which have not previously been released shall be released from escrow and all securities delivered in escrow to the commissioner or some other depository satisfactory to him subsequent to January 1, 1968 which have not previously been released shall be released from escrow no later than ten (10) years after the date of delivery into escrow.

(4) The commissioner may also require as a condition of registration by qualification that the issuer undertake to keep the securities registered under this chapter for a period of up to five (5) years or until the securities become exempt securities under ***Section 12 of this Act or become covered securities***[~~KRS 292.410~~], and that the issuer forward to its security holders audited annual ***financial statements***[~~financials~~] during the period for which the shares are registered. The commissioner may by rule or order impose other undertakings.

(5) For the registration of securities by notification***,***[~~ or~~] coordination, or qualification, there shall be paid to the

commissioner an examination fee of one hundred twenty-five dollars ($125) and a registration fee of three-fiftieths of one percent (0.06%) of the aggregate offering price of the securities which are to be offered in this state, but the registration fee shall in no case be less than sixty dollars ($60) nor more than one thousand two hundred dollars ($1,200). The examination fee and the registration fee shall be payable in separate checks. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under KRS 292.390, the commissioner shall retain the examination fee.~~[For the registration of securities issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, a new registration fee and examination fee shall be paid each year that the registration remains in effect, based upon the aggregate offering price of such securities which are to be offered in this state during that year, even though the maximum fee was paid the preceding year, and the registration statement for such securities may be amended to increase the amount of securities to be offered.]~~ For a registration by notification for market-making purposes only the examination fee need be paid.

(6) When securities are registered by notification or by coordination or by qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer. Every registration statement is effective for one (1) year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is being made or by any underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by him as a participant in the distribution, except during the time a stop order is in effect under KRS 292.390. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction:

(a) So long as the registration statement is effective; and

(b) Between the thirtieth day after the entry of any stop order suspending or revoking the effectiveness of the registration statement under KRS 292.390 (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one (1) year from its effective date if any securities of the same class are outstanding.

A registration statement may be withdrawn otherwise only in the discretion of the director.

~~[(7) The commissioner may require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering. The commissioner shall impose a fee of ten dollars ($10) for each such report filed with him.]~~

Section 10. KRS 292.390 is amended to read as follows:

(1) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that:

(a) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under KRS 292.380(5) as of its effective date,~~[or any report under KRS 292.380(7),]~~ is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(b) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been willfully violated, in connection with the offering by:

1. The person filing the registration statement;

2. The issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer; or

3. Any underwriter;

(c) The security registered or sought to be registered is the subject of an administrative stop order or a similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but:

1. The commissioner may not institute a proceeding against an effective registration statement under this paragraph more than one (1) year from the date of the order or injunction relied on; and

2. He may not enter an order under this paragraph on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(d) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(e) The offering has worked or tended to work a fraud upon purchasers or would so operate;

(f) The offering has been, or would be, made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensations, or promoters' profits or participation, or unreasonable amounts or kinds of options;

(g) When a security is sought to be registered by notification it is not eligible for such registration;

(h) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by KRS 292.360(2)(g);

(i) The applicant or registrant has failed to pay the proper registration fee; but the commissioner may enter only a denial order under this paragraph and he shall vacate any such order when the deficiency has been corrected;

(j) ***Commissions, compensation, and selling and other transaction expenses***[~~A commission or fee~~] greater than ***twenty percent (20%) in the aggregate, or such other amount specified in the guidelines adopted by the North American Securities Administrators Association,***[~~fifteen percent (15%)~~] would be paid directly or indirectly, in consideration for the sale of securities sought to be registered[~~, and this fee shall exclude reasonable legal and accounting expenses~~].

(2) The commissioner may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next thirty (30) days.

(3) The commissioner may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of a stop order under any part of this section, the commissioner shall promptly notify the issuer of the securities, the applicant or registrant, and the person on whose behalf the securities are to be or have been offered that the order has been entered and of the reasons therefor and that within fifteen (15) days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within fifteen (15) days and none is ordered by the commissioner, the commissioner shall enter his written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to the issuer and to the applicant or registrant, shall enter his written finding of fact and conclusions of law and may modify or vacate the order. The commissioner may modify or vacate a stop order if he finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

SECTION 11. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may require the filing of any of the following documents with respect to a covered security under Section 18(b)(2) of the Securities Act of 1933:

(a) Prior to the initial offer of such covered security in this state, all documents that are part of a current federal registration statement filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933 or a notice form adopted by the commissioner in lieu thereof, together with a consent to service of process signed by the issuer and with payment of a filing fee as follows:

1. Five hundred dollars ($500) for an investment company, other than a unit investment trust, that is registered or that has filed a registration statement, under the Investment Company Act of 1940; or

2. Three hundred dollars ($300) for a unit investment trust that is registered or that has filed a registration statement under the Investment Company Act of 1940; and

(b) After the initial offer of such covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933, or a notice form adopted by the commissioner in lieu thereof, which shall be filed concurrently with the commissioner;

(c) Except for a notice filing by a unit investment trust, which shall be effective indefinitely, all notice filings for such covered securities are effective for a period of one (1) year upon receipt by the commissioner of a properly completed filing, including the correct fee, unless another date is requested by the issuer. An annual filing shall be required of an open-end investment company that continuously offers or sells its securities in this state, which filing shall consist of the documents specified in paragraph (a) of this subsection, exclusive of the consent to service of process, and a filing fee in the amount of five hundred dollars ($500). The annual renewal filing shall be effective upon the expiration of the prior filing period if it is properly completed, including the correct fee, and is received by the commissioner on or before the expiration date;

(d) Amendments to a notice filing are effective upon receipt by the commissioner. Termination of a notice filing is effective upon receipt by the commissioner of notice of the termination; and

(e) Notwithstanding the provisions of paragraphs (a) to (d) of this subsection, for the period ended October 10, 1999, the commissioner may require the registration of a covered security issued by any issuer for which a fee has not been properly paid and the improper payment has not been remedied within ten (10) business days following receipt of written notification from the commissioner to the issuer of the nonpayment or underpayment of the fee, as required by this chapter.

(2) The commissioner shall require the filing of, with respect to any security that is a covered security under Section 18(b)(4)(D) of the Securities Act of 1933, a notice on SEC Form D, a two hundred fifty dollar ($250) filing fee, and a consent to service of process signed by the issuer no later than fifteen (15) days after the first sale of such covered security in this state.

(3) The commissioner may require the filing of any document filed with the U.S. Securities and Exchange Commission under the Securities Act of 1933 with respect to a covered security under Section 18(b)(3) or (4) of the Securities Act of 1933, together with a filing fee in the amount of two hundred fifty dollars ($250).

(4) The commissioner may issue a stop order suspending the offer and sale of a covered security, except a covered security under Section 18(b)(1) of the Securities Act of 1933, upon finding that:

(a) The order is necessary or appropriate in the public interest or for the protection of investors; and

(b) There is a failure to comply with any condition established under this section.

(5) The commissioner may waive any or all of the provisions of this section upon finding that they are not necessary or appropriate in the public interest or for the protection of investors.

Section 12. KRS 292.400 is amended to read as follows:

KRS 292.340 to 292.390 shall not apply to any of the following:

(1) Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one (1) or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institutions, or trust company organized and supervised under the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(5) Securities issued by corporations formed under KRS Chapter 279;

(6) Any security issued or guaranteed by any federal credit union or any credit union;

(7) Any security issued or guaranteed by any[~~ railroad, other~~] common carrier, public utility, or holding company which is:

(a)[~~ Subject to the jurisdiction of the Interstate Commerce Commission;~~

~~(b)~~] A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act;

(b)[~~(c)~~]Regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or

(c)[~~(d)~~]Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the ***Chicago***[~~Midwest~~] Stock Exchange, the Pacific Stock Exchange, ***the Philadelphia Stock Exchange, the Chicago Board Options Exchange,*** or any other stock exchange approved by the commissioner; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing***. This exemption is available only for securities listed on Tier I of those exchanges having more than one (1) tier***;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidence an obligation to pay cash within nine (9) months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or any guarantee of the paper or of any renewal;

(11) Any ***security***[~~investment contract~~] issued in connection with an ***employee***[~~employee's~~] stock purchase, ***stock option,*** savings, pension, profit-sharing, or similar benefit plan***, including any underlying security. For those plans that do not qualify under Section 401 of the Internal Revenue Code and that provide for contribution by employees, the***

securities are exempt if a notice specifying the terms of the plan is filed with the commissioner before the securities are issued or before December 31, 1998, and the commissioner does not disallow the exemption within the next five (5) business days. The commissioner may, by rule, modify any requirement for a specific class of issuers or impose additional requirements for this exemption or waive any requirement[~~if the commissioner is notified in writing thirty (30) days before the inception of the plan or, with respect to plans which are in effect on January 1, 1961, within sixty (60) days thereafter (or within thirty (30) days before they are reopened if they are closed on January 1, 1961)~~];

(12) Securities issued by corporations formed under or which have adopted the provisions of KRS 272.101 to 272.345 and patronage dividends or refunds be they in the form of stock, book equities, letters of credit, or letters of advice issued by any agricultural cooperative association which are the result of distributable earnings or savings;

(13)[~~Any class of securities added by the commissioner, by rule and subject to the terms and conditions the commissioner prescribes, to the securities exempted by this section, if the commissioner finds that enforcement of this chapter with respect to the securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or limited character of the public offering. No issue of securities shall be exempted under this subsection if the aggregate amount at which the issue is offered to the public exceeds two hundred thousand dollars ($200,000);~~

~~(14) Any security which meets all of the following conditions:~~

~~(a) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;~~

~~(b) A class of the issuer's securities is required to be and is registered under Section 12 of the Securities Exchange Act of 1934, and has been so registered for the three (3) years immediately preceding the offering date;~~

~~(c) Neither the issuer nor a significant subsidiary has had a material default during the last seven (7) years (or the issuer's existence if less than seven (7) years) in the payment of:~~

~~1. Principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money; or~~

~~2. Rentals under leases with terms of three (3) years or more;~~

~~(d) The issuer has had consolidated net income (before extraordinary items and the cumulative effect of accounting changes) of at least one million dollars ($1,000,000) in four (4) of its last five (5) fiscal years including its last fiscal year; and if the offering is of interest-bearing securities, has had for its last fiscal year, such net income, but before deduction for income taxes and depreciation, of at least one and one-half (1 1/2) times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. "Last fiscal year" means the most recent year for which audited financial statements are available, if the statements cover a fiscal period ended not more than fifteen (15) months from the commencement of the offering;~~

~~(e) If the offering is of stock or shares, other than preferred stock or shares, the securities have voting rights and the rights include:~~

~~1. The right to have at least as many votes per share; and~~

~~2. The right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law;~~

~~(f) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six (6) months prior to the commencement of the offering, by at least twelve hundred (1,200) persons, and on that date there are at least seven hundred fifty thousand (750,000) such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least three million seven hundred fifty thousand dollars ($3,750,000). In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this section upon written information furnished by the record owners.~~

~~(15)~~] Memberships and voting stock issued by cooperative corporations formed under or which have adopted the provisions of KRS 272.020 to 272.050, and patronage refunds issued by cooperative corporations which are the result of distributable earnings or savings***;***

(14) Any security for which the commissioner expressly by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors; or

(15) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state and authorized to do business in this state.

Section 13. KRS 292.410 is amended to read as follows:

(1) Except as expressly provided, KRS 292.330 to 292.390 shall not apply to any of the following transactions:

(a) Any isolated nonissuer transaction, whether effected through a broker-dealer or not;

(b) Any nonissuer distribution of an outstanding security by a registered broker-dealer, if the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three (3) preceding fiscal years, or during the existence of the issuer and any predecessors if less than three (3) years, in the payment of principal, interest, or dividends on the security;

(c) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the commissioner may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period;

(d) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(e) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel first mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(g) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter;

(h) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(i) ***The offer or sale of a security by the issuer of the security if all of the following conditions are met:***

1. The issuer does not offer or sell the securities by means of a form of general advertisement or general solicitation. The following shall not constitute general solicitation within the meaning of this section:

a. Solicitation of indications of interest in accordance with the terms and conditions as the commissioner may adopt by rule; or

b. Offers to sell securities and the dissemination of written offering materials in accordance with the terms of this section at least thirty (30) days after the withdrawal of an application by the issuer to register the same class of securities;

2. The issuer reasonably believes that each purchaser of the securities is acquiring the securities for investment and is aware of any restrictions imposed on transferability and resale of the securities. The basis for reasonable belief may include:

a. Obtaining a written representation signed by the purchaser that the purchaser is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on the transferability and resale of the securities; and

b. Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under this chapter, and setting forth or referring to the restrictions on transferability and sale of the securities; and

3. The transaction satisfies one (1) of the following conditions:

a. Each purchaser has access to all the material facts with respect to the securities by reason of the purchaser's active involvement in the organization or management of the issuer or the purchaser's family relationship with a person actively involved in the organization or management of the issuer;

b. There are not more than fifteen (15) purchasers in Kentucky and each Kentucky purchaser is an "accredited investor" as defined by Rule 501 of the Securities Act of 1933 or is a purchaser described in subdivision a. of this subparagraph; or

c. The aggregate offering price of the securities, including securities sold outside of Kentucky, does not exceed five hundred thousand dollars ($500,000), the total number of purchasers, including purchasers outside of Kentucky, does not exceed thirty-five (35), and each purchaser either receives all of the material facts with respect to the decision to invest in the security or is an accredited investor or a purchaser described in subdivision a. of this subparagraph.

4. Persons receiving commissions, finders fees, or other remuneration in connection with sales of securities in reliance on this subsection are not relieved of compliance with subsection (6) of Section 5 of this Act;

5. The commissioner may by rule deny the exemption provided in this subsection to a particular class of issuers or may make the exemption available to the issuers upon compliance with additional

conditions and requirements, if appropriate in furtherance of the intent of this chapter;

6. The commissioner may, by order, increase the maximum number of purchasers or the maximum offering amount provided in paragraph 3.c. of this subsection upon request if the commissioner determines that any such increase is necessary or appropriate in the public interest or for the protection of investors. Any request to increase either or both of the conditions shall be made in writing to the commissioner before any sale in reliance on the requested increase and shall be accompanied by the following:

a. A statement of the amount of the increase in the maximum offering amount or in the number of purchasers being requested, and the issuer's reasons for requesting the increase;

b. A copy of the offering circular or other written materials being distributed to prospective purchasers;

c. A copy of the written representation and legend serving as the issuer's basis for reasonable belief of a purchaser's investment intent and awareness of restrictions on the transferability and resale of the security being acquired; and

d. A filing fee of two hundred fifty dollars ($250). ~~[Any transaction pursuant to an offer directed by the offeror to not more than twenty-five (25) persons (other than those designated in paragraph (h)) in this state during any period of twelve (12) consecutive months, whether or not the offeror or any of the offerees is then present in this state, if~~

~~1. The seller reasonably believes that all the buyers are purchasing for investment, and~~

~~2. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in paragraph (h)); but the commissioner may by rule or order, as to any security or transaction, withdraw or further condition this exemption, or increase or decrease the number of offerees permitted, or waive the conditions in subparagraphs 1. and 2. of this paragraph with or without the substitution of a limitation on remuneration;]~~

(j) Any offer or sale of a preorganization certificate or subscription, if*:*

1. No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber*;*~~[,]~~

2. The number of subscribers does not exceed twenty-five (25)*;*~~[,]~~ and

3. No payment is made by any subscriber;

(k) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance, if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state;

(l) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act;

(m) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock;

(n) Any transaction incident to a right of conversion or a statutory or judicially-approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation, or sale of assets;

(o) Any transaction by a person who does not control, and is not controlled by or under common control with, the issuer if*:*

1. The transaction is at a price reasonably related to the current market price*;*~~[,]~~

2. The security is registered under Section 12 of the Securities Exchange Act of 1934 and the issuer files reports pursuant to Section 13 of that act*;*~~[,]~~ and

3. Copies of such federal registration statements, reports, forms or exhibits as the commissioner may by rule or order require are filed with the commissioner;

(p) Any transaction by a person who may control, or may be controlled by or under common control with, the issuer if*:*

1. The transaction is at a price reasonably related to the current market price*;*~~[,]~~

2. The security is registered under Section 12 of the Securities Exchange Act of 1934 and the issuer files

reports pursuant to Section 13 of that act;[~~, and~~]

3. Copies of such federal registration statements, forms, reports, or exhibits as the commissioner may by rule or order require are filed with the commissioner;[~~,~~] and

4. Such sales by any such person comply with such rules as the commissioner may prescribe; ***or***

(q) Any transaction for which the commissioner by rule or order finds that registration is not necessary or appropriate in the public interest or for the protection of investors.

(2) The commissioner may by order deny or revoke the exemption specified in KRS 292.400(6), (9), ***or***[~~(11),~~] (12)[~~, or (13)~~] or in this section with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specified exemptions pending final determination of any proceeding under this subsection. Upon entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen (15) days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order to extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this chapter by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order. In any proceeding under this chapter, the burden of proving an exemption from a definition is upon the person claiming it.

Section 14. KRS 292.415 is amended to read as follows:

(1) Before any security may be issued as an exempt security under subsections (9) ***or***[~~,~~] (12) ***of Section 12 of this Act***[~~, (13), or (14) of KRS 292.400, or offered for sale or sold as an exempt transaction under KRS 292.410(1)(i) or (k)~~], a claim of exemption must first be filed with the commissioner and the commissioner by order shall not have determined that the exemption is unavailable within the next ten (10) full business days. A claim of exemption filed under this section shall be in such form and contain such information as the commissioner by rule or order requires and each offering shall be effective for a maximum of twelve (12) consecutive months unless the commissioner by rule or order extends such period of time, not to exceed five (5) years.

(2) ***The issuer may make offers, but not sales, before and during the ten (10) business day period required by subsection (1) of this section, if:***

(a) Each prospective purchaser is advised in writing that the offer is preliminary and subject to material change; and

(b) No enforceable offer to purchase the securities may be made by a prospective purchaser, and no consideration in any form may be accepted or received, directly or indirectly, from a prospective purchaser, before the termination of the ten (10) business day period and any order disallowing the exemption has been vacated.

The commissioner may, by rule or order, prohibit offers by a particular class of issuers before the expiration of the ten (10) business day period required by subsection (1) of this section, or may require issuers to comply with additional conditions and requirements prior to making offers before the expiration of the period, if appropriate in furtherance of the intent of this chapter[~~For every claim of exemption filed with the commissioner there shall be paid to the commissioner a filing fee of one hundred dollars ($100), except that for a claim of exemption filed under subsection (9) of KRS 292.400 the filing fee is one-tenth of one percent (0.1%) of the maximum aggregate offering price at which the securities are to be offered in this state, but the fee shall in no case be less than one hundred dollars ($100) or more than five hundred dollars ($500). The commissioner shall have authority to amend or rescind under this subsection such filing fees by rule or order if the commissioner determines that such fee is excessive under the circumstances~~].

(3) [~~Any person who fails to comply with this section shall be liable for a fee in the amount of five (5) times the initial filing fee and~~]The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of an exemption, if he finds that the order is in the public interest and that any security has been or is about to be offered or sold in violation of this section. If the commissioner finds it appropriate in the public interest or necessary for the protection of investors, the commissioner may order any issuer in violation of this section to make an offer of rescission.

(4) Failure by any person to file a claim of exemption under this section shall not give rise to a private right of action under KRS 292.330(1), 292.340, or 292.480 which would not otherwise be available under the provisions of this chapter.

(5) Any person who fails to file a claim of exemption under this section, unless he does so intentionally, shall not be subject to KRS 292.991.

Section 15. KRS 292.420 is amended to read as follows:

(1) In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(2) The commissioner may require any person, who is selling or offering for sale or who is about to sell or offer for sale or who has sold or offered for sale any security within this state, to file a statement of the claim of exemption, if any, upon which such person is relying, and if any time, in the opinion of the commissioner, the information contained in such statement filed is misleading, incorrect, inadequate, or fails to establish the right of exemption, he may require such person, agent, or investment adviser to file such information as may in his opinion be necessary to establish the claimed exemption. The refusal to furnish information as required by order of the commissioner pursuant to the provisions of this subsection, within a reasonable time to be fixed by the commissioner, shall be proper ground for the entry of an order by the commissioner suspending and/or canceling the registration of the broker-dealer, agent or investment adviser.

(3) The commissioner shall have authority at all times to consider and determine whether any proposed sale, transaction, issue, or security is entitled to an exemption or an exception from the definition accorded by this chapter, provided, however, that the commissioner in his discretion may decline to exercise such authority as to any proposed sale, transaction, issue, or security. Any interested party desiring the commissioner to exercise such authority shall submit to the commissioner a verified statement of all material facts relating to the proposed sale, transaction, issue, or security, which verified statement shall be accompanied by a request for a ruling as to the particular exemption or exception from definition, together with a filing fee of ***two hundred fifty dollars ($250)***[~~one hundred dollars ($100)~~]. After such notice to interested parties as the commissioner shall deem proper and after a hearing, if any, the commissioner may enter an order finding the proposed sale, transaction, issue, or security entitled or not entitled to the exemption or the exception from definition as claimed. An order so entered, unless an appeal be taken therefrom in the manner prescribed in this chapter, shall be binding upon the commissioner, provided that the proposed sale, transaction, issue, or security when consummated or issued conforms in every relevant and material particular with the facts as set forth in the verified statement as submitted.

Section 16. KRS 292.430 is amended to read as follows:

(1) Every applicant for registration as a broker-dealer***,***[~~ or~~] agent***, investment adviser, or investment adviser representative*** under this chapter and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the commissioner, in such form as he by rule prescribes, an irrevocable consent appointing the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:

(a) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his last address on file with the commissioner; and

(b) The plaintiff's affidavit of compliance with this ***subsection***[~~section~~] is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(2) ***Every issuer of a covered security and every covered adviser who makes a notice filing with Kentucky under this chapter shall file with the commissioner, in the form as prescribed by administrative regulation, an irrevocable consent appointing the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, or administrator that arises under this chapter or under any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed a consent in connection with a previous notice filing need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless:***

(a) The plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his last address on file with the commissioner; and

(b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within the time as the court allows.

(3) When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and he has not filed a consent to service of process under subsection (1) ***or (2) of this section*** and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct shall be considered equivalent to his appointment of the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor executor or administrator which grows out of that conduct and which is brought under this chapter or any rule or order hereunder, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the commissioner, and it is not effective unless:

(a) The plaintiff, who may be the commissioner, in a suit, action, or proceeding instituted by him forthwith sends notice of the service and a copy of the process by certified mail, return receipt requested, or by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

Section 17. KRS 292.450 is amended to read as follows:

(1) Neither the fact that an application for registration under KRS 292.330 or a registration statement under KRS 292.350, 292.360, or 292.370 has been filed, nor the fact that a person or security is effectively registered, constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading.

(2) Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the commissioner has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with this section.

(3) Neither the fact that a notice filing for a covered security or for a covered adviser has been filed, nor the fact that the person, security, or transaction is registered or exempt from registration, constitutes a finding by the commissioner that any document filed under this chapter is true, complete, and not misleading or that the person, security, or transaction is entitled to claim an exemption.

(4) It is unlawful to make or cause to be made to any prospective purchaser, customer, or client any representation inconsistent with this section.

Section 18. KRS 292.460 is amended to read as follows:

(1) The commissioner in his discretion:

(a) May make such public or private investigations within or outside of this state as he deems necessary to determine whether any registration should be granted, denied, or revoked or whether any person has violated or is about to violate any provision of this chapter or any rule or order ***under this chapter***[~~hereunder~~], or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder;

(b) May require or permit any person to file a statement in writing, under oath or otherwise as the commissioner may determine, as to all the facts and circumstances concerning the matter to be investigated; ***or***[~~and~~]

(c) May publish information concerning any violation of this chapter or any rule or order hereunder.

(2) For the purpose of any investigation or proceeding under this chapter, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) No person is excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Section 19. KRS 292.470 is amended to read as follows:

Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order ***under this chapter***[~~hereunder~~], he may in his discretion bring ***any or all of the following remedies:***

(1) Issue a cease and desist order, with or without a prior hearing, appealable to Franklin Circuit Court, against the person or persons engaged in the prohibited activities directing that person or persons to cease and desist from illegal activity. In order to issue an order without a prior hearing, the commissioner must find that the delay in issuing a final cease and desist order will cause harm to the public;

(2) An action in ***the Franklin Circuit Court or*** any ***other*** court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order ***under this chapter***[~~hereunder~~]. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. ***Upon a proper showing by the commissioner, the court may enter an order of rescission, restitution, or disgorgement directed to any person who has engaged in any act constituting a violation of this chapter or any rule or order under this chapter.*** The commissioner may not be required to post a bond***; or***

(3) Issue a final order, after notice and a hearing, containing findings of fact and conclusions of law, directing any person or persons found to have engaged in, or about to be engaged in, activity that constitutes a violation of this chapter or any rule or order under this chapter:

- ***(a) To cease and desist from the activity;***
- ***(b) To perform any other reasonable mandates directed by the commissioner pursuant to an appropriate remedy fashioned by the commissioner and reasonably calculated to carry out the provisions of this chapter; or***
- ***(c) To pay fines assessed under subsection (14) of Section 22 of this Act and costs assessed under subsection (15) of Section 22 of this Act***.

Section 20. KRS 292.480 is amended to read as follows:

(1) Any person, who offers or sells a security in violation of this chapter or of any rules ***or orders***[~~and regulations~~] promulgated hereunder or offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in the light of the circumstances under which they are made not misleading (the buyer not knowing of the untruth or omission) and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at ***the legal rate***[~~six percent (6%) per annum~~] from the date of payment costs and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer is disposed of it and (b) interest at ***the legal rate***[~~six percent (6%)~~] per annum from the date of disposition.

(2) ***Any person who purchases a security in violation of this chapter or of any administrative regulations or orders promulgated under this chapter or who purchases a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in light of the circumstances under which they are made not misleading, the seller not knowing of the untruth or omission, and who does not sustain the burden of proof that he did not know and in the exercise of reasonable care could not have known of the untruth or omission is liable to the person selling the security to him, who may sue either at law or in equity for:***

- ***(a) A return of the security, together with any income received by the purchaser on the security, costs, and reasonable attorney's fees, upon a tender of the full amount of the consideration received for the security; or***
- ***(b) If the purchaser no longer owns the security, the difference between the fair value of the security at the date of the transaction and the consideration received for the security, together with interest on the difference at the legal rate compounded annually from the date of the transaction, and costs and reasonable attorney's fees.***

(3) For purposes of paragraph (b) of subsection (2) of this section, when the purchaser no longer owns the security, if a seller seeking relief under paragraph (b) of subsection (2) of this section offers and presents admissible evidence of the highest intermediate value of the subject security as of some specific date occurring within a reasonable period of time after the date of the sale of the security but no later than the date an action under paragraph (b) of subsection (2) of this section is filed, or of the total consideration received by the purchaser in a subsequent sale of that security, it shall be presumed until rebutted by a preponderance of evidence to the contrary that the value or sale price, as applicable, is the fair value of the security at the date of the transaction as those terms are used in paragraph (b) of subsection (2) of this section to measure damages. For purposes of subsections (1) and (2) of this section and all other provisions of this chapter, statements and omissions may be either oral or written.

(4) Every person who directly or indirectly controls a seller ***or purchaser*** liable under subsection (1) ***or (2) of this section***, every partner, officer or director (or person occupying a similar status or performing similar functions) or employee of[~~such~~] a seller ***or purchaser*** who materially aids in the sale ***or purchase***, and every broker-dealer or agent who materially aids in the sale ***or purchase*** is also liable jointly and severally with and to the same extent as the seller ***or purchaser***, unless the nonseller ***or nonpurchaser*** who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(5)[~~(3)~~] Any tender specified in this section may be made at any time before entry of judgment. Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant. No person may sue under this section more than three (3) years after the ***occurrence of the act, omission, or transaction constituting a violation of this chapter***[~~contract of sale~~]. No person may sue under this section***:***

(a) If the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid together with interest at ***the legal rate***[~~six percent (6%) per annum~~] from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt***;***[~~, or~~]

(b) If the buyer received[~~ such~~] an offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within thirty (30) days of its receipt***; or***

(c) If paragraph (b) of subsection (2) of this section applies, and if the seller received a written offer before suit equal to the difference between the greater of the highest intermediate value of the security or the consideration received by the purchaser upon disposal of the security and the consideration received by the seller for the security, together with interest on the difference at the legal rate from the date of the transaction; or if paragraph (a) of subsection (2) of this section applies, and if the seller received a written offer to return the security together with any income received by the purchaser on the security; and in either case he failed to accept the offer within thirty (30) days of its receipt.

(6)[~~(4)~~] No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any[~~ such~~] contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void.

(7) The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Section 21. KRS 292.490 is amended to read as follows:

Any person aggrieved by a final order of the commissioner may obtain a review of the order by filing in ***accordance with KRS Chapter 13B in*** the Franklin Circuit Court, within ***thirty (30)***[~~sixty (60)~~] days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be forthwith served upon the commissioner, and thereupon the commissioner shall certify and file in court a copy of the filing, testimony, and other evidence upon which the order was entered. When these have been filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part. No objection to the order may be considered by the court unless it was urged before the commissioner or there were reasonable grounds for failure to do so. The findings of the commissioner as to the facts, if supported by substantial evidence, are conclusive. If either party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for failure to adduce the evidence in the hearing before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such conditions as the court may consider proper. The commissioner may modify his findings as to the facts, by reason of the additional evidence so taken; and he shall file any modified or new findings, which if supported by substantial evidence shall be conclusive, and any recommendation for the modification or setting aside of the original order. The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the commissioner's order. An appeal may be taken from the judgment of the Franklin Circuit Court on any such appeal to the Court of Appeals on the same terms and conditions as an appeal is taken in civil actions.

Section 22. KRS 292.500 is amended to read as follows:

(1) The administration of the provisions of this chapter shall be under the Department of Financial Institutions.

(2) It is unlawful for the commissioner or any of his officers or employees to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. ***Except as provided in subsection (18) of this section,*** no provision of this chapter authorizes the commissioner or any of his officers or employees to disclose any confidential information except among themselves or when necessary or appropriate in an administrative hearing or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of his officers or employees.

(3) The commissioner may from time to time promulgate, amend, and repeal administrative regulations, forms, and orders as are necessary to carry out the provisions of this chapter, including administrative regulations and forms governing registration statements, applications, ***notice filings,*** and reports and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of administrative regulations and forms, the commissioner may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.

(4) No administrative regulation, form, or order may be promulgated, amended, or repealed unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provision of this chapter. In promulgating administrative regulations and forms, the commissioner may cooperate with the securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statement, applications, ***notice filings,*** and reports whenever practicable.

(5) The commissioner may by administrative regulation or order prescribe the form and content of financial statements required under this chapter and the circumstances under which consolidated financial statements shall be certified by certified public accountants. All financial statements shall be prepared in accordance with generally-accepted accounting standards.

(6) All administrative regulations and forms of the commissioner shall be published.

(7) No provision of this chapter imposing any liability applies to any act done or omitted in good faith in conformity with any administrative regulation, form, or order of the commissioner, notwithstanding that the administrative regulation, form, or order may later be amended or repealed or be determined by judicial or other authority to be invalid for any reason.

(8) A document is filed when it is received by the commissioner or when the commissioner receives confirmation that a document has been filed pursuant to ***Sections 5, 7, 8, and 11 of this Act***~~[KRS 292.330]~~.

(9) Every administrative hearing shall be conducted in accordance with KRS Chapter 13B and the provisions of this chapter, and shall be public unless the commissioner in his discretion grants a request joined in by all the respondents that the hearing be conducted privately.

(10) The commissioner shall keep a register of all applications for registration and registration statements ***and notice filings*** which are or have ever been effective under this chapter and all denial, suspension, or revocation final orders which have ever been entered under this chapter. The register shall be open for public inspection.

(11) The information contained in or filed with any registration statement, application, ***notice filings,*** or report may be made available to the public under administrative regulations as the commissioner may promulgate.

(12) Upon request and at reasonable charges as he prescribes, the commissioner shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In any administrative hearing or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

(13) The commissioner in his discretion may honor requests from interested persons for interpretative opinions.

(14) The commissioner may assess civil fines against any person who violates any provision of this chapter or any rule or order under this chapter.

(15) In addition to any fines levied under subsection (14) of this section, the commissioner may also assess the costs of any investigation, including attorney's fees incurred as a result of bringing enforcement actions under the provisions of this chapter and costs of holding any hearing as a result of an enforcement action. Costs and attorney's fees may only be assessed if there has been a final determination that a violation has occurred, and in an amount reasonably related to the costs of investigation and enforcement for those violations only.

(16) If fines or costs assessed under this section are not paid, the commissioner may notify the Attorney General who shall promptly institute an action in the name of the Commonwealth of Kentucky, in the Franklin Circuit Court for the recovery of the fines or costs.

(17) The remedies provided by this section are not exclusive and may be sought and employed in any combination to enforce the provisions of this chapter. The remedies set forth in this section shall not prohibit or restrict the commissioner from participating in any way whatsoever with respect to any joint examination, investigation, enforcement action, settlement, or other legal or regulatory action with securities administrators of other jurisdictions, the Securities and Exchange Commission, any self-regulatory organization, or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. Accordingly, the commissioner may, at any time and in his sole discretion, share or cause to be shared by any employee of the department any information gained pursuant to an examination, investigation, filing, or from any other source, with other governmental agencies, jurisdictions, or governmental or self-regulating organizations or entities, to the extent the commissioner, in his sole discretion, deems that the sharing of information is or will be reasonably necessary or useful to the department or other agency in carrying out its regulatory responsibilities.

(18) The following materials, documentation, and other information are deemed to have been confidentially disclosed to the department and to be confidential information under the Kentucky Open Records Act and, specifically, the provisions of KRS 61.878(1)(b), to the extent described in this subsection and except as provided further in administrative regulation:

(a) Any materials, documentation, or other information provided to or otherwise obtained by the department during the course of a routine compliance examination of any broker-dealer, agent, investment adviser, or

investment adviser representative; and

(b) Any materials, documentation, or other information provided to or otherwise obtained by the department from any other regulatory or governmental body, including but not limited to any other state securities regulator, the Securities and Exchange Commission, any self-regulatory organization, any state or federal criminal agency, and any criminal prosecutorial body, and which the other body expressly deems to be confidential.

Section 23. KRS 292.530 is amended to read as follows:

(1) The purpose of this chapter is to:

(a) Protect Kentucky investors by preventing investment fraud and related illegal conduct or, if this fraud or illegal conduct has already occurred, remedying, where possible, the harm done to Kentucky investors through active implementation and application of this chapter's enforcement powers;

(b) Educate the investing public as to the best methods for making informed investment choices; and

(c) Assist companies in their legitimate attempts to raise capital and transact in securities in Kentucky.

(2) In addition, this chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and to coordinate the interpretation and administration of this chapter with the related federal regulation.

Section 24. KRS 292.540 is amended to read as follows:

All effective registrations under prior law and all conditions imposed upon such registrations remain in effect so long as they would have remained in effect if they had become effective under this chapter. They are considered to have been filed, entered or imposed under this chapter***, except to the extent the conditions apply to securities that are now covered securities***.

The Committee on Cities reported **HB 28, HB 38,** and **HB 87**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 28, AN ACT changing the classification of the City of Crescent Springs, in Kenton County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Crescent Springs, in Kenton County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Crescent Springs, in Kenton County, is transferred from the fifth to the fourth class of cities.

HB 38, AN ACT relating to the reemployment of retirees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency shall have his retirement payments suspended for the duration of reemployment ***except as provided in subsection (7) of this section***. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:

(a) The member may receive the pay for the elected city or county office, but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and

(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.

HB 87, AN ACT relating to the Kentucky Uniform State Building Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others:

(a) Armories;

(b) Assembly halls;

(c) Auditoriums;

(d) Bowling alleys;

(e) Broadcasting studios;

(f) Chapels;

(g) Churches;

(h) Clubrooms;

(i) Community buildings;

(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or nonmine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular***, and also means single-family dwellings, including those sold or constructed under a trade or brand name***. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a manufactured home ***governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq.***,~~[mobile home,]~~ or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if ***the***~~[such]~~ farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.~~[This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name.]~~

(5) ~~[Any city, county, or urban-county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the Uniform State Building Code on such dwellings.~~

~~(6) Nothing in this chapter shall be construed to exempt single family dwellings from those provisions of the Uniform State Building Code that relate to the National Electric Code and the State Plumbing Code.~~

~~(7)~~ ~~]~~"Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling, or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;

(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(6)[~~(8)~~] "Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwea~~lth~~.

(7)[~~(9)~~] "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.

(8)[~~(10)~~] "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.

(9)[~~(11)~~] "Commissioner" means the commissioner of housing, buildings and construction.

(10)[~~(12)~~] "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.

(11)[~~(13)~~] "Department" means the Department of Housing, Buildings and Construction.

(12)[~~(14)~~] "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Preschools;
(g) Relocatable classroom units;
(h) Schools;
(i) Seminaries;
(j) Universities.

(13)[~~(15)~~] "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(14)[~~(16)~~] "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;

(o) Rubber factories.

(15)[~~(17)~~] "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, except for occupancies of high hazard, including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(16)[~~(18)~~] "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(17)[~~(19)~~] "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment, or by persons involuntarily detained, including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of correction;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(18)[~~(20)~~] "Mobile home" means mobile home as defined in KRS 227.550.

(19)[~~(21)~~] "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

(20)[~~(22)~~] "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(21)[~~(23)~~] "Person with a physical disability" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose

hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.

(22)[~~(24)~~] "Facility for persons with physical disabilities" means any convenience or device which facilitates the health, safety or comfort of a person with a disability, including, but not limited to, ramps, handrails, elevators, and doors.

(23)[~~(25)~~] "Manufactured home" is defined as in KRS 227.550.

Section 2. KRS 198B.060 is amended to read as follows:

(1) Each local government[~~in the State of Kentucky~~] shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for inspection and code enforcement services in accordance with subsections (8) and (11) of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction,[~~ and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the Uniform State Building Code,~~] except that ***permits, inspections, and certificates of occupancy shall not be mandatory for single-family residences unless a local government passes an ordinance requiring inspections of single-family residences***[~~a building code adopted by a local government prior to March 28, 1978, may continue in effect until the time the Uniform State Building Code becomes mandatory within that local government jurisdiction~~].

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional, or high hazard occupancy; or assembly, business, or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates, and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of the permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. The determination may be reviewed and altered by the board.

(4) ***With the exception of single-family dwellings,*** the department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates, and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program***, except that the commissioner shall not preempt or assert jurisdiction for the enforcement of the code on single-family dwellings***. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. The petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal the denial directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. If the local government is granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over the additional responsibility, but the local government shall collect any fees for functions it performs pursuant to the additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) ~~[Upon the effective date of the Uniform State Building Code,]~~No building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for the construction. ***Nothing in this subsection shall require a single-family dwelling to be permitted or inspected unless a local government has established a building inspection program as set out in this section.***

(9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of the building. The applicant for a building permit, by the act of applying for the permit, shall be deemed to have consented to inspection~~[,]~~ by the local government or the department, of the building during construction and upon the completion of construction for the purpose of determining that the building is constructed in compliance with the Uniform State Building Code.

(10) (a) No permit for building, construction, reconstruction, renovation, demolition, or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition, or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.

(b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed four thousand dollars ($4,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.

(c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.

(11) ***A certified electrical inspector shall be employed by, or contracted for, or contracted with a local government or area development district having responsibility over buildings as set out in this section as part of its building inspection program.*** After a certified electrical inspector has been~~[employed, contracted for or with, or otherwise]~~ provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building***, or any building which has been moved,*** until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(12) This section shall apply to industrialized building systems, but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the Board of Housing, Buildings and Construction, shall not be performed in order to conduct the tests or inspections.

(13) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions. ***Nothing in this subsection shall be construed to require a certificate of occupancy to be issued for any single-family dwelling unless a local government has established jurisdiction for the enforcement of the Uniform State Building Code under this section.***

(14) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.

(15) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section if:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;

(c) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and

(e) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(16) If the department has reason to believe that an inspector is not enforcing, or is improperly enforcing, the provisions of the Kentucky building codes, it shall conduct an informal hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector, or may take action to suspend or revoke the inspector's certificate.

(17) If, after written notification from the department to the inspector of any corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies. Any action to suspend or revoke an inspector's certificate may be appealed to the board, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(18) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 3. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, and to enforce, regulations governing construction as defined by KRS 198B.010[~~(12)~~] pursuant to the provisions of KRS 198B.060.

The Committee Substitute to **HB 87** is as follows:

AN ACT relating to the Kentucky Uniform State Building Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;

(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or nonmine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular***, and also means single-family dwellings, including those sold or constructed under a trade or brand name***. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a manufactured home ***governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. sec. 5401 et seq.***,[~~mobile home,~~] or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if ***the***[~~such~~] farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.[~~This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name.~~]

(5) [~~Any city, county, or urban county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the Uniform State Building Code on such dwellings.~~

~~(6) Nothing in this chapter shall be construed to exempt single family dwellings from those provisions of the Uniform State Building Code that relate to the National Electric Code and the State Plumbing Code.~~

~~(7)~~]"Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling, or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(6)[~~(8)~~] "Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.

(7)[~~(9)~~] "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.

(8)[~~(10)~~] "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.

(9)[~~(11)~~] "Commissioner" means the commissioner of housing, buildings and construction.

(10)[~~(12)~~] "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.

(11)[~~(13)~~] "Department" means the Department of Housing, Buildings and Construction.

(12)[~~(14)~~] "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Preschools;
(g) Relocatable classroom units;
(h) Schools;
(i) Seminaries;
(j) Universities.

(13)[~~(15)~~] "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(14)[~~(16)~~] "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable, or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(15)[~~(17)~~] "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, except for occupancies of high hazard, including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;

(l) Pumping stations;

(m) Repair garages;

(n) Smokehouses;

(o) Workshops.

(16)[~~(18)~~] "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(17)[~~(19)~~] "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment, or by persons involuntarily detained, including among others:

(a) Asylums;

(b) Homes for the aged;

(c) Hospitals;

(d) Houses of correction;

(e) Infirmaries;

(f) Jails;

(g) Nursing homes;

(h) Orphanages;

(i) Penal institutions;

(j) Reformatories;

(k) Sanitariums;

(l) Nurseries.

(18)[~~(20)~~] "Mobile home" means mobile home as defined in KRS 227.550.

(19)[~~(21)~~] "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

(20)[~~(22)~~] "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(21)[~~(23)~~] "Person with a physical disability" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging.

(22)[~~(24)~~] "Facility for persons with physical disabilities" means any convenience or device which facilitates the health, safety or comfort of a person with a disability, including, but not limited to, ramps, handrails, elevators, and doors.

(23)[~~(25)~~] "Manufactured home" is defined as in KRS 227.550.

Section 2. KRS 198B.060 is amended to read as follows:

(1) Each local government[~~in the State of Kentucky~~] shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for inspection and code enforcement services in accordance with subsections (8) and (11) of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction***,***[~~, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the Uniform State Building Code,~~] except that ***permits, inspections, and certificates of occupancy shall not be mandatory for single-family residences unless a local government passes an ordinance requiring inspections of single-family residences***[~~a building code adopted by a local government prior to March 28, 1978, may continue in effect until the time the Uniform State Building Code becomes mandatory within that local government jurisdiction~~].

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional,

or high hazard occupancy; or assembly, business, or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates, and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of the permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. The determination may be reviewed and altered by the board.

(4) ***With the exception of single-family dwellings,*** the department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates, and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program***, except that the commissioner shall not preempt or assert jurisdiction for the enforcement of the code on single-family dwellings***. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. The petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal the denial directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. If the local government is granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over the additional responsibility, but the local government shall collect any fees for functions it performs pursuant to the additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) ~~[Upon the effective date of the Uniform State Building Code,]~~No building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for the construction. ***Nothing in this subsection shall require a single-family dwelling to be permitted or inspected unless a local government has established a building inspection program as set out in this section.***

(9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of the building. The applicant for a building permit, by the act of applying for the permit, shall be deemed to have consented to inspection~~[,]~~ by the local government or the department, of the building during construction and upon the completion of construction for the purpose of determining that the building is constructed in compliance with the Uniform State Building Code.

(10) (a) No permit for building, construction, reconstruction, renovation, demolition, or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition, or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.

(b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed four thousand dollars

($4,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.

(c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.

(11) ***A certified electrical inspector shall be employed by, or contracted for, or contracted with a local government having responsibility over buildings as set out in this section as part of its building inspection program.*** After a certified electrical inspector has been[~~ employed, contracted for or with, or otherwise~~] provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building***, or any building which has been moved,*** until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(12) This section shall apply to industrialized building systems, but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the Board of Housing, Buildings and Construction, shall not be performed in order to conduct the tests or inspections.

(13) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions. ***Nothing in this subsection shall be construed to require a certificate of occupancy to be issued for any single-family dwelling unless a local government has established jurisdiction for the enforcement of the Uniform State Building Code under this section.***

(14) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.

(15) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section if:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;

(c) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and

(e) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(16) If the department has reason to believe that an inspector is not enforcing, or is improperly enforcing, the provisions of the Kentucky building codes, it shall conduct an informal hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector, or may take action to suspend or revoke the inspector's certificate.

(17) If, after written notification from the department to the inspector of any corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies. Any action to suspend or revoke an inspector's certificate may be appealed to the board, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(18) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 3. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, and to enforce, regulations governing construction as defined by KRS 198B.010[~~(12)~~] pursuant to the provisions of KRS 198B.060.

The Committee on Judiciary reported **HB 22**, with Committee Substitute attached thereto, **HB 23** and **HB 136**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 22, AN ACT relating to property transfers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.135 is amended to read as follows:

(1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:

(a) The mailing addresses of the grantor and grantee;

(b) A statement of the full consideration; and

(c) In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or

(d) In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.

(2) The deed filing requirements listed in subsection (1)(b) and (c) of this section shall not apply to:

(a) Deeds which only convey utility easements;

(b) Deeds which transfer property through a court action pursuant to a divorce proceeding;

(c) Deeds which convey rights-of-way that involve governmental agencies;

(d) Deeds which convey cemetery lots; and

(e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee.

(3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.

(4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, ***or the beneficiary or devisee receiving the real estate shall,*** prior to closing out the estate,[~~shall~~] file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:

(a) The names and addresses of the persons receiving each property passing by will or intestate succession; and

(b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.

(5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

The Committee Substitute to **HB 22** is as follows:

AN ACT relating to property transfers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.135 is amended to read as follows:

(1) In addition to any other requirement imposed by law, a deed to real property shall contain the following:

(a) The mailing addresses of the grantor and grantee;

(b) A statement of the full consideration; and

(c) In the case of a transfer other than by gift, or with nominal or no consideration a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, that the consideration reflected in the deed is the full consideration paid for the property; or

(d) In the case of a transfer either by gift or with nominal or no consideration, a sworn, notarized certificate signed by the grantor or his agent and the grantee or his agent, or the parent or guardian of a person under eighteen (18) years old, stating that the transfer is by gift and setting forth the estimated fair cash value of the property.

(2) The deed filing requirements listed in subsection (1)(b) and (c) of this section shall not apply to:

(a) Deeds which only convey utility easements;

(b) Deeds which transfer property through a court action pursuant to a divorce proceeding;

(c) Deeds which convey rights-of-way that involve governmental agencies;

(d) Deeds which convey cemetery lots; and

(e) Deeds which correct errors in previous deeds conveying the same property from the same grantor to the same grantee.

(3) In the case of an exchange of properties, the fair cash value of the property being exchanged shall be stated in the body of the deed.

(4) In the event of a transfer of property by will or under the laws of intestate succession, the personal representative of the estate, ***or an heir, or a beneficiary, or a devisee receiving the real estate shall,*** prior to closing out the estate,[~~ shall~~] file an affidavit with the county clerk of each county in which any of the property is located, which shall contain the following:

(a) The names and addresses of the persons receiving each property passing by will or intestate succession; and

(b) The full or fair market value of each property as estimated or established for any purpose in the handling of the estate, or a statement that no such values were estimated or established.

(5) No county clerk or deputy clerk shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

HB 23, AN ACT relating to the use of juries in competency hearings conducted in guardianship proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.570 is amended to read as follows:

(1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of determining the disability of a respondent, the respondent shall[~~ have a jury trial and shall~~] have the right to present evidence and to confront and cross-examine all witnesses.

(2) The hearing may be closed to the public on request of the respondent or his counsel.

(3) The respondent shall be present at the hearing, and his presence may be waived only upon a determination of the court that his attendance would subject him to serious risk of harm. Such determination shall be evidence only of the respondent's inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.

(4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.

(5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.

(6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by KRS 387.540 testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.

(7) If demanded by or on behalf of any party, the hearing shall be by jury. Otherwise, the court may hold the hearing with or without a jury as the court may elect.

Section 2. KRS 387.580 is amended to read as follows:

(1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial disability or disability, the ***court, or the jury if one is impaneled,***[~~jury~~] shall:

(a) Inquire into the nature and extent of the general intellectual functioning of the respondent;

(b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;

(c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and

(d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.

(2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.

(3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:

(a) The type of guardian or conservator to be appointed;

(b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;

(c) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;

(d) The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;

(e) The individual or entity, if any, to be appointed as standby guardian or conservator; and

(f) The duration of the term of guardianship or conservatorship.

HB 136, AN ACT relating to juror compensation and jury fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.170 is amended to read as follows:

(1) All jurors in Circuit and District Court shall be paid ***twenty-five dollars ($25)***[~~five dollars ($5)~~] per day for jury service.[~~In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.~~]

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

Section 2. KRS 29A.330 is amended to read as follows:

(1) The jury fee for a civil trial in Circuit Court shall be ***fifty dollars ($50)***[~~twenty-five dollars ($25)~~]. The jury fee for a civil trial in District Court shall be ***twenty-five dollars ($25)***[~~twelve dollars and fifty cents ($12.50)~~].

(2) The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.

(3) If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee.

(4) If a plaintiff sues in forma pauperis, he shall not be liable for a jury fee.

(5) If a request for a jury trial is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.

The Committee Substitute to **HB 136** is as follows:

AN ACT relating to juror compensation and jury fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.170 is amended to read as follows:

(1) All jurors in Circuit and District Court shall be paid ***twenty-five dollars ($25)***[~~five dollars ($5)~~] per day[~~ for jury service. In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day~~] as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

Section 2. KRS 29A.330 is amended to read as follows:

(1) The jury fee for a civil trial in Circuit Court shall be ***fifty dollars ($50)***[~~twenty-five dollars ($25)~~]. The jury fee for a civil trial in District Court shall be ***twenty-five dollars ($25)***[~~twelve dollars and fifty cents ($12.50)~~].

(2) The jury fee shall be assessed as costs against the unsuccessful party upon judgment or dismissal of the action.

(3) If two (2) or more cases are consolidated by order of the court and tried together, the clerk shall collect only one (1) jury fee.

(4) If a plaintiff sues in forma pauperis, he shall not be liable for a jury fee.

(5) If a request for a jury trial is withdrawn or the case is disposed of not less than two (2) court days prior to the date set for trial the clerk shall not assess the jury fee.

The Committee on Transportation reported **HB 137** and **HJR 33** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 137, AN ACT relating to the funding of public transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96A.095 is amended to read as follows:

(1) The Transportation Cabinet is authorized and empowered to receive and accept from the Commonwealth or any of its agencies and from federal agencies appropriations or grants to ***promote, develop, and provide capital and operating subsidies for***[~~accomplish the promotion and development of~~] mass transit services in Kentucky, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value to promote mass transit services. Subject to the provisions of Section 230 of the Constitution of the Commonwealth of Kentucky, any ***of these***[~~such~~] funds, property, or things of value received by the Transportation Cabinet may be given directly to a local transit authority as created under this chapter or to a city or a county or other public mass transit providers, in order to accomplish the purposes of this section.

(2) The Transportation Cabinet is authorized and directed to apply for any available federal funds for operating subsidies, either on a matching basis or otherwise and to make any ***of these***[~~said~~] funds received available to transit authorities created under this chapter or to a city or a county or other public mass transit providers in order to accomplish the purposes of this section; or in ***those***[~~such~~] cases where federal laws or regulations preclude the Transportation Cabinet from direct application for ***this type of***[~~such~~] federal funds, the cabinet is authorized and directed to provide assistance to local transit authorities or a city or a county or other public mass transit providers as necessary to enable it to apply for and obtain ***this type of***[~~such~~] federal funds, in order to accomplish the purposes of this section.

(3) The Transportation Cabinet is authorized to assist cities and counties in the formation of local transit authorities in conformance with this chapter, but nothing in this chapter shall be construed as preventing the Transportation Cabinet from providing such assistance as authorized in this chapter to cities or counties where local transit authorities do not exist.

Section 2. KRS 96A.096 is amended to read as follows:

There is[~~ hereby~~] created in the State Treasury a special fund to be known as the "Kentucky Public Transportation Development Fund." All moneys deposited or paid into this fund are appropriated and shall be available to the cabinet for the purposes of KRS 96A.095. All moneys in ***this***[~~such~~] fund shall be expended[~~ solely~~] for ***public transportation capital and operating subsidies,*** public transportation development, or [~~the ~~]administrative costs incidental to ***these***[~~said~~] developments. The fund shall consist of all money appropriated by the state and all money received from the United States or from any other source for the purpose of ***providing public transportation capital and operating subsidies and*** public transportation development ***funds***. All moneys in the Kentucky public transportation development fund shall be deposited, administered, and dispersed in the same manner and under the same conditions and requirements as are provided by law for other special funds in the State Treasury, except that any balance in this fund shall not lapse at any time but shall be continuously available to the cabinet for the purposes of carrying out the provisions of KRS 96A.095. A general statement that all continuing appropriations are repealed shall not be construed as abolishing this fund.

HJR 33, A JOINT RESOLUTION directing the Transportation Cabinet to name KY 1526 between Blue Lick Road and KY 61, also known as the Brooks Extension Road, the "John Harper Road" and to erect appropriate highway signs.

WHEREAS, John Harper ably served the citizens of Bullitt County in the General Assembly as Representative of the Forty-ninth House District from 1985 through 1993; and

WHEREAS, John Harper has continued to serve the citizens of Bullitt County as County Judge Executive from 1993 to the present, leading the county during a period of great growth and prosperity; and

WHEREAS, John Harper has contributed his time and talents to a host of charitable, civic, and social organizations in Bullitt County; and

WHEREAS, all who know John Harper as a legislator, county judge, neighbor, and friend have been touched by his integrity, intelligence, dedication, good humor, and kindness;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name KY 1526 between Blue Lick Road and KY 61, also known as the Brooks Extension Road, the "John Harper Road."

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "John Harper Road" to facilitate their erection upon the effective date of this Resolution.

Section 3. A copy of this Resolution shall be sent to the Secretary of the Transportation Cabinet and the District

Highway Engineer in Louisville, Kentucky.

Calendar

HB 52, HB 56, HB 2, HB 53, HB 86, HB 104, HB 185, HB 6, HB 63, HB 173, and **HB 167** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Napier moved the adoption of the following **Legislative Citation No. 21**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Carhartt, Inc. Manufacturers of "Original Equipment for American Workers". The members of the House of Representatives are pleased to join with Representative Lonnie Napier in commending this increasingly successful manufacturer of durable work clothes. Operating since 1889, and based in Michigan, Carhartt has eleven of its fifteen manufacturing and distribution centers in Kentucky and provides employment to 1,500 Kentuckians. Irvine is home to the company's longest-running plant, which opened in 1932. We applaud Carhartt's recent announcement of plans to expand its Madisonville plant over the next five years, creating an additional 400 jobs; and we further commend the decisions made by this family-owned business to produce an exemplary product and to manufacture that product at a fair wage and with fair labor practices in the United States of America. With so many textile manufacturing jobs having been lost recently in Kentucky, it is a pleasure today that the Kentucky House of Representatives expresses its gratitude to Carhartt and wishes for its continued success. **Legislative Citation No. 21** was adopted without objection.

Representative Murgatroyd moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 20**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds the efforts and offers its sincerest congratulations to the Covington Catholic High School Colonels for their achievements as the Class AAA State Football Champions. Whereas they are the masters of football skill in the Class AAA Division of the State Football Competition, this prestigious body commends the accomplishments of this dedicated team that has captured its fifth state championship in eleven years and recognizes the great honor and distinction they have consistently brought their school and community. The House of Representatives joins with Representative Richard Murgatroyd in honoring this team for its many achievements and in wishing its members every success as they further their academic and athletic careers. **Legislative Citation No. 20** was adopted without objection.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 2, HB 6, HB 53,** and **HB 56** have been posted for passage in the Orders of the Day for January 16, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

HB 52, Appropriations and Revenue

Orders of the Day

HB 131 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 131** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See January 15, 1998 roll call on **HB 131** - Appendix.) **HB 131** was passed and the title agreed to. Representative Burch moved that the vote by which **HB 131** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 145, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative G. Graham moved that **HB 145** be passed.

Representative Stine moved the adoption of Floor Amendment No. 2 to **HB 145**. Floor Amendment No. 2 to **HB 145** was rejected. (See January 15, 1998 roll call on Floor Amendment No. 2 to **HB 145** - Appendix.)

Representative Stine moved the adoption of Floor Amendment No. 1 to **HB 145**. Floor Amendment No. 1 to **HB 145** was rejected. (See January 15, 1998 roll call on Floor Amendment No. 1 to **HB 145** - Appendix.)

Representative G. Graham moved that **HB 145** be passed.

On the roll call the vote was: Yeas 83, Nays 12. (See January 15, 1998, roll call on **HB 145** - Appendix.) **HB 145** was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 156 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 156** be passed.

Representative Cave moved that **HB 156** be laid on the Clerk's Desk. The motion that **HB 156** be laid on the Clerk's Desk was rejected.

On the roll call the vote was: Yeas 85, Nays 8 (See January 15 , 1998 roll call on **HB 156** - Appendix.) **HB 156** was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 156** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 170 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 170** be passed.

On the roll call the vote was: Yeas 98, Nays 0 (See January 15 , 1998 roll call on **HB 170** - Appendix.) **HB 170** was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 170** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 2 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HJR 2** be adopted.

On the roll call the vote was: Yeas 97, Nays 0 (See January 15, 1998 roll call on **HJR 2** - Appendix.) **HJR 2** was adopted. Representative Damron moved that the vote by which **HJR 2** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 3 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HCR 3** be adopted.

On the roll call the vote was: Yeas 98, Nays 0 (See January 15, 1998 roll call on **HCR 3** - Appendix.) **HCR 3** was adopted. Representative Ballard moved that the vote by which **HCR 3** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 132, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of the Committee Substitute to **HB 132**. Agreed.

Representative Nunn moved that **HB 132**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 6 (See January 15, 1998 roll call on **HB 132** - Appendix.) **HB 132**, by way of Committee Substitute, was passed and the title agreed to. Representative Mason moved that the vote by which **HB 132**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 280** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 52**. Agreed.

Representative Stumbo moved that **HB 266** be reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 292, by Representatives Kerr, Walton, Crall, Marcotte, Stine, Reinhardt, Simpson, Murgatroyd, R. Adams, Heleringer, Gooch, Vincent, Cave, Hogancamp, P. Clark, Bratcher, Treesh, Brandstetter, Ford, and Hoover: AN ACT relating to crimes and punishments.

HB 293, by Representatives Kerr, Walton, Crall, Stine, Reinhardt, Simpson, Murgatroyd, R. Adams, Heleringer, Vincent, Cave, Hogancamp, P. Clark, Treesh, Bratcher, Brandstetter, Marcotte, Ford and Hoover: AN ACT relating to wrongful death actions.

HB 294, by Representative Kerr: AN ACT relating to custodial accounts.

HB 295, by Representative Kerr: AN ACT relating to toll-free telephone service to state government.

HB 296, by Representative Kerr: AN ACT relating to civil rights.

HB 297, by Representative Hatcher: AN ACT relating to carrying concealed deadly weapons.

HB 298, by Representative Hatcher: AN ACT relating to crimes and punishments.

HB 299, by Representatives Marzian, Johns, Long, Bruce and Burch: AN ACT relating to traumatic brain injury.

HB 300, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 301, by Representatives Hatcher, Stumbo, Heleringer, Callahan, Jordan, Crimm, L. Clark, Mason, Bowling, Polston, Richards, Nesler, D. D. Butler, Wayne and Siler: AN ACT relating to crimes and punishments.

HB 302, by Representative Nunn: AN ACT relating to renal dialysis facilities.

HB 303, by Representatives Bratcher, Treesh, Weaver, Simpson, Crimm, Gooch, P. Clark, Bowling, Reinhardt, Stewart, Pope, Kerr, Colter, Haydon, Napier, Vincent, Baugh, Miniard, Wilkey, Hogancamp, Ford, Cox, Cave, Rader, DeWeese, Anderson, Damron, Crall, Nunn, Heleringer, and Brandstetter: AN ACT relating to crimes and punishments.

HB 304, by Representatives Marzian, Stein, Johns, L. Clark, Jordan, Jenkins, Nesler, Hoffman, Horlander, Palumbo, Colter, Geveden, Bowling, Callahan, and Burch: AN ACT relating to gender equity on state boards and commissions

HCR 41, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Phillip Irl Huddleston to the Council on Postsecondary Education.

HR 42, by Representative Heleringer: A RESOLUTION commending Catholic Schools and celebrating national Catholic Week.

Motions, Petitions and Communications (Continued)

Representative Murgatroyd moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Murgatroyd moved that he be recorded as voting "yea" on **HB 131**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed Representative Crenshaw moved that he be recorded as voting "yea" on **HB 131**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crimm moved that he be recorded as voting "yea" on **HB 145**. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Counties and Special Districts: **HB 242, HB 83**

Appropriations and Revenue: **HB 240**

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under the rules previously suspended: **HB 2, HB 39, HB 41, HB 45, HB 52, HB 68, HB 74, HB 85, HB 119, HB 136, HB 137, HB 196, HB 226, HB 229, HB 231, HB 240,** Representative Worthington; **HB 11, HB 85, HB 106,** Representative Reinhardt; **HB 51, HB 168, HB 184,** Representative Crimm; **HB 36,** Representative Baugh; **HB 37,** Representative Yonts; **HB 39,** Representatives Nesler, McKee; **HB 49,** Representative Burch; **HB 52,** Representatives Hoffman, Anderson; **HB 56,** Representative Hoffman; **HB 58,** Representatives Baugh, Treesh; **HB 68,** Representative Sims; **HB 69,** Representatives Jenkins, Walton; **HB 82,** Representative Riggs; **HB 90,** Representative Vincent; **HB 106,** Representative Gee; **HB 136,** Representatives Bruce, Gooch; **HB 137,** Representative Colter; **HB 149,** Representative Gray; **HB 161,** Representative Simpson; **HB 168,** Representatives Brandstetter, Gray; **HB 175,** Representative McKee; **HB 213, HB 230,** Representative Jenkins; **HB 289,** Representative Rader; **HCR 1,** Representative Stumbo; **HCR 14,** Representative Worthington

Announcements

The following meetings were announced:

Jefferson County Delegation, Room 125

Appropriations and Revenue, January 20, 1998, 2:30 p.m., Room 129

Minority Caucus, January 16, 1998, 9:00 a.m., Room 113

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 16, 1998.

On the roll call the vote was **Yeas 82**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Bratcher, Bruce, Burch, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rasche, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Wilkey, Yonts, Zimmerman. **Nays 5**--Bowling, Crall, Maricle, Riggs, Stewart.

The motion to adjourn was adopted.

FRIDAY, JANUARY 16, 1998

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Allen, Curd, Deskins, Heleringer, Miniard, and Newsome.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 15, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 2**, by Representative Hogancamp:

On page 1, line 3, at the beginning of the line, by inserting "***(1)***" in front of "***No***"; and

On page 1, after line 4, by inserting a new subsection as follows:

"***(2) This Act shall be known as the Nicole Hadley, Jessica James, and Kayce Steger Act.***".

Introduction of Bills and Resolutions

HB 305, by Representatives Stein, Siler, L. Clark, Brown, Anderson, D. Butler, Hoffman, Jordan, Marzian, Gray, Bowling, Mason, Stumbo, Turner, Yonts, Nunn, Jenkins, Crenshaw, and Zimmerman: AN ACT relating to minimum wage.

HB 306, by Representatives Stein, Siler, L. Clark, Brown, Anderson, D. Butler, Jordan, Hoffman, Marzian, Gray, Stumbo, Bowling, Vincent, Mason, Turner, Yonts, Nunn, Jenkins, Crenshaw, and Zimmerman: AN ACT relating to the duties of the commissioner of labor.

HB 307, by Representatives Mason, Stein, and Crenshaw: AN ACT relating to the Kentucky Tuition Grant program.

HB 308, by Representatives Mason, Stein, and Crenshaw: AN ACT relating to teacher scholarships.

HR 43, by Representative Baugh: A RESOLUTION adjourning the house of Representatives in loving memory and honor of Wyatt Ewing Ezell.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HB 289**

Education: **HCR 41**

Elections and Constitutional Amendments: **HB 291**

Health and Welfare: **HB 299, HB 302**

Judiciary: **HB 290, HB 292, HB 293, HB 294, HB 296, HB 297, HB 298, HB 301, HB 303**

State Government: **HB 295, HB 300, HB 304**

Transportation: **HB 288**

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 39, HR 42**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HB 31, HB 119, HB 212, HB 231, HCR 14**

Licensing and Occupations: **HB 256**

State Government: **HB 51, HB 205, HB 232, HB 234, HB 245, HB 284**

Calendar

HB 39, HB 58, HB 175, HB 176, HB 112, HB 28, HB 38, HB 87, HB 22, HB 23, HB 136, HB 137, and **HJR 33** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules for the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 86, HB 104, HB 185, HB 28, HB 87, HB 176,** and **HJR 33** have been posted for passage in the Orders of the Day for January 20, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

HB 175, Appropriations and Revenue

Orders of the Day

HB 154, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative G. Graham moved that **HB 154** be passed.

Representative Lee moved the adoption of Floor Amendment No. 1 to **HB 154**. Agreed.

Representative G. Graham moved that **HB 154**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 1 (See January 16, 1998 roll call on **HB 154** - Appendix.) **HB 154,** as amended, was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 154**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maricle moved that **HB 6** be passed.

On the roll call the vote was: Yeas 87, Nays 1 (See January 16 , 1998 roll call on **HB 6** - Appendix.) **HB 6** was passed and the title agreed to. Representative Maricle moved that the vote by which **HB 6** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 53, with Committee Substitute and Committee Title Amendment No. 1 attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved the adoption of the Committee Substitute to **HB 53**. Agreed.

Representative Hatcher moved that **HB 53**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0 (See January 16, 1998 roll call on **HB 53** - Appendix.) Representative

Hatcher moved the adoption of the Committee Title Amendment No. 1 to **HB 53**. Agreed; and the title was agreed to. **HB 53**, by way of Committee Substitute as amended, was passed. Representative Hatcher moved that the vote by which **HB 53**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 198 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 198** be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See January 16 , 1998 roll call on **HB 198** - Appendix.) **HB 198** was passed and the title agreed to. Representative Long moved that the vote by which **HB 198** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 199, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Substitute to **HB 199**. Agreed.

Representative Long moved that **HB 199**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See January 16, 1998 roll call on **HB 199** - Appendix.) **HB 199**, by way of Committee Substitute, was passed and the title agreed to. Representative Long moved that the vote by which **HB 199**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 309, by Representative Long: AN ACT relating to the state property and buildings commission.

HB 310, by Representative Long: AN ACT relating to zoning.

HB 311, by Representative Lee: AN ACT relating to motor vehicles.

HB 312, by Representative Moberly: AN ACT relating to structured settlements.

HB 313, by Representatives Wilkey, Stein, Marzian and Thomas: AN ACT relating to wills.

HB 314, by Representatives Wilkey, Bowling, Stein, Marzian, and Thomas: AN ACT providing for the adoption of the Uniform TOD Security Registration Act.

HB 315, by Representatives Damron, DeWeese, Stumbo, Barrows, and Richards: AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

HB 316, by Representative Simpson: AN ACT relating to crimes and punishment.

HR 44, by Representatives P. Clark, Nesler, Reinhardt, Wayne, Barrows, Heleringer, Bowling, Geveden, Stewart, Bratcher, Brown, Worthington, Sims, Thomas, Hogancamp, Riner, L. Clark, Nunn, Jenkins, Horlander, Hoffman, Stacy, D. Butler, Zimmerman, Brandstetter, Stumbo, Maricle and J. Arnold: A RESOLUTION requesting the Department for Military Affairs to fly the MIA/POW flag at the Vietnam Memorial on the same schedule as the United States flag is flown.

HCR 45, by Representative Richards: A CONCURRENT RESOLUTION confirming the appointment of Evelyn Boone to the Kentucky Long-Term Policy Research Center Board.

HCR 46, by Representative Richards: AN ACT relating to confirming the appointment of June Lyne to the Kentucky Long-Term Policy Research Center Board.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Judiciary: **HB 174, HB 121, HB 165, HB 166, HB 59, HB 60, HB 61**

Licensing and Occupations: **HB 186, HCR 40**

Health and Welfare: **HB 93, HB 227**

Motions, Petitions and Communications (Continued)

Representative Gooch moved the adoption of the following **Legislative Citation No. 19**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of Jimmy Demsey country western guitarist extraordinaire whose phenomenal talent sanctioned him to accompany such accomplished artists as Jerry Lee Lewis, Merle Haggard and Little Jimmy Dickens. Whereas, Jimmy Demsey has been sharing his music with Kentuckians since the age of two and one-half, has recorded his own solo albums and has been recognized by his peers by being inducted into the Atlanta Country Music Hall of Fame and the North American Country Music Association International Hall of Fame. It has been said that music is the sweetest, most harmonious configuration of feeling and surely this incredible Kentucky musician is now serene beyond the care and worries of this world and is now wearing that crown of jewels so ardently deserved and surely is playing first guitar in that heavenly "ole opry." The Kentucky House of Representatives doth hereby adjourn this fourteenth day of January, nineteen hundred and ninety-eight, in memory of this extraordinary person who charmed and entertained Kings and Commoners without distinction. **Legislative Citation No. 19** was adopted without objection.

Representative Vincent moved the adoption of the following **Legislative Citation No. 27**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Representative Stan Cave in recognition of his 35th Birthday. In celebration of this memorable event, the entire Republican Caucus joins Representative John Vincent, along with the other members of this honorable body, in honoring our respected colleague who has earned a reputation for thoughtful moderation. Representative Cave has reached, on this auspicious occasion, the age whereupon he may file to run for the Presidency of this nation as well as the age whereupon he should probably leave the gravy off his morning repast of sausage and biscuits. To the respected Gentleman from Fayette, we hereby extend best wishes on this day of celebration. **Legislative Citation No. 27** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 2**, by Representative Barrows:

On page 1, line 3, after "***prohibit***" by deleting "***students***" and inserting in lieu thereof, "***a student***".

Floor Amendment No. 3 to **HB 2**, by Representative Stein:

On page 1, line 3 by inserting before "*No*" the following:

"***Accommodation of religion is required by the free speech and free exercise clauses of the First Amendment to the United States Constitution and therefore***"; and

On page 1, after line 4 by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A student shall have the right to carry out an activity described in any of paragraphs (a) to (d) of subsection (2) of this section, if the student does not:

(a) Infringe on the rights of the school to:

1. Maintain order and discipline;

2. Prevent disruption of the educational process; and

3. Determine educational curriculum and assignments;

(b) Harass other persons or coerce other persons to participate in the activity; or

(c) Otherwise infringe on the rights of other persons.

(2) Subject to the provisions of subsection (1) of this section, a student shall be permitted to voluntarily:

(a) Pray in a public school, vocally or silently, alone or with other students to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, or speak on nonreligious matters alone or with other students in the public school;

(b) Express religious viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious topics or subjects in the school;

(c) Speak to and attempt to discuss religious viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious viewpoints with other students. However, any student may demand that this speech or these attempts to share religious viewpoints not be directed at him or her;

(d) Distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions to the same extent and under the same circumstances as a student is permitted to distribute literature on nonreligious topics or subjects in the school; and

(e) Be absent, in accordance with attendance policy, from a public school to observe religious holidays and participate in other religious practices to the same extent and under the same circumstances as a student is permitted to be absent from a public school for nonreligious purposes.

(3) No action may be maintained under Sections 1 to 4 of this Act unless the student has exhausted the following administrative remedies:

(a) The student or the student's parent or guardian shall state his or her complaint to the school's principal;

(b) If the concerns are not resolved, then the student or the student's parent or guardian shall make a complaint in writing to the superintendent with the specific facts of the alleged violation;

(c) The superintendent shall investigate and take appropriate action to ensure that the rights of the student are resolved within thirty (30) days of the date of the written complaint; and

(d) Only after the superintendent's investigation and action, may a student or the student's parent or legal guardian pursue any other legal action under subsection (4) of this section.

(4) If the right of a student established by this section is violated by a public school, the student may assert the violation as a claim or a defense in a judicial proceeding, and obtain appropriate relief against the public school. Any action shall be brought in the Circuit Court for the judicial circuit where the violation occurred or where the student resides. Standing to assert a claim or defense under this section shall be governed by the Kentucky Rules of Civil Procedure and common law interpretations of the rules.

(5) A student prevailing in a claim brought against a public school for a violation of this section or an action brought by a public school against a student for conduct covered by this section shall be entitled to reasonable attorney fees, court costs, and the cost of bringing or defending this action.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 4 of this Act shall be construed to affect, interpret, or in any way address the establishment clause.

(2) The specification of religious liberty or free speech rights in Sections 1 to 4 of this Act shall not be construed to exclude or limit religious liberty or free speech rights otherwise protected by federal, state, or local law.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 4 this Act shall be construed to support, encourage, or permit a teacher, administrator, or other employee of the public schools to lead, direct, or encourage any religious or anti-religious activity in violation of the portion of the First Amendment of the United States Constitution prohibiting laws respecting an establishment of religion.".

Motions, Petitions and Communications (Continued)

Representative Moberly moved the adoption of the following **HR 39**:

HR 39, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John E. Barrows.

With deepest respect and admiration, we pay homage and tribute to John E. Barrows.

WHEREAS, John E. Barrows, a native of Stickney, South Dakota, and longtime resident of Versailles, Kentucky, traversed these earthly bounds on December 27, 1997; and

WHEREAS, John E. Barrows was the loving son of the late John Peter and Grace Parry Barrows; he was the devoted husband of Josephine Howard Barrows; he was the adored father of one daughter, Susan B. Hipkens, and four sons, D. Peter Barrows, William B. Barrows, John E. Barrows, Jr., and state representative Joe H. Barrows; and he was the proud grandfather of six grandchildren; and

WHEREAS, John E. Barrows received his BA from Yankton College in 1938; he earned his Doctorate of Education from the University of Kentucky in 1959, where he had been a professor of Anthropology; and he served as head of Institutional Planning in the administration in the Vice President's office; and

WHEREAS, John E. Barrows served his country with distinction in the United States Navy from 1941 until 1954; and during World War II, he served as a pilot in the Pacific Theatre; and he was the recipient of two distinguished flying crosses and five air medals; and

WHEREAS, John E. Barrows, who touched the lives of so many people, was affectionately known to his friends as "Jugs", and will be remembered as an active and involved citizen, and a highly esteemed member of the Woodford County community where he was a devout member of the Versailles United Methodist Church; he was a member of the Versailles Rotary Club; he was a member and officer of the Woodford Humane Society; he was an officer of and had been awarded a lifetime directorship in the Buckley Hills Audubon Society; he was a member of the Kentucky Audubon Council; he was a director of the Kentucky Hunter-Jumper Association; and he was a member of the USS Bunker Hill Association; and

WHEREAS, all who knew and admired John E. Barrows will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of John E. Barrows, and extends to his family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John E. Barrows.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Josephine H. Barrows, 459 Barroway Lane, Versailles, Kentucky 40383.

There being no objection **HR 39** was adopted. (See January 16, 1998 roll call to co-sponsor **HR 39** - Appendix.)

Representative Lovell moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Lovell moved the adoption of the following **Legislative Citation No. 22**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Bourbon County High School Football Team upon winning the 1997 Class AA State Football Championship. Inasmuch as this extraordinary team has enjoyed a stellar year, winning their first state championship and holding several teams scoreless in both regional and semi-final play, the members of this distinguished body are pleased to join Representative Jim Lovell in commending the members of the Bourbon County High School Football Team for their well-deserved winning season and in extending best wishes for continued academic and athletic success. **Legislative Citation No. 22** was adopted without objection.

Representative R. Adams moved the adoption of the following **Legislative Citation No. 23**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to John Pennington on his extraordinary good fortune when, during the half-time of a Grant County High School basketball game, he completed a basketball shot from the half-court line which resulted in him winning $10,000. A senior at Grant County, this remarkable young man is the first to make the shot since the event was initiated in 1996. The members of this prestigious body are pleased to join Representative Royce Adams in recognizing John Pennington as an exceptional young citizen of this Commonwealth and in extending to him the very best of luck in the future. **Legislative Citation No. 23** was adopted without objection.

Representative Worthington moved the adoption of the following **Legislative Citation No. 24**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends The City of Maysville and all those public service and emergency preparedness personnel--the police officers, firefighters, city commissioners, elected officials, transportation employees, dispatchers and volunteers--for the courageous and life-saving efforts put forth during the January 4, 1998, fire at the Cargill Fertilizer Plant. Particular recognition is extended to the heroic members of the Maysville Fire Department. Averting disaster because of rapid response to and assessment of the fire by all agencies involved, there was minimal impact on the environment due to sound and responsible decisions to effectively deal with the horrific blaze that was fueled by massive amounts of ammonium nitrate and other hazardous chemicals. Furthermore, the rapid evacuation of nearly 3,000 area residents resulted in virtually no injuries to either members of the community or members of the emergency response teams. The laudable success of this endeavor to preserve and protect the community was the result of a concerted effort by many departments and many individuals. Therefore, the members of this honorable body are pleased to join Representative Pete Worthington in recognition of the City of Maysville for its service to all those citizens affected by this fire. **Legislative Citation No. 24** was adopted without objection.

Representative Worthington moved the adoption of the following **Legislative Citation No. 25**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Orangburg Volunteer Fire Department for the heroic and life-saving efforts exhibited during the recent fire at the Cargill Fertilizer Plant. Working tirelessly and in cooperation with the Maysville City Fire Department and other city departments and volunteer groups, this team is to be commended for its relentless efforts to contain the blaze and to evacuate the surrounding residents. Inasmuch as the members of the Orangburg Volunteer Fire Department worked bravely and with great diligence to preserve and protect human life, this honorable body is pleased to join with Representative Pete Worthington in recognizing them for their invaluable service to the citizens of Maysville and the surrounding area and in extending to them best wishes for continued safety and success. **Legislative Citation No. 25** was adopted without objection.

Representative Worthington moved the adoption of the following **Legislative Citation No. 26**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Steve Zweigart the Department of Emergency Services Deputy Disaster Coordinator in charge of operations during the January 4, 1998, fire at the Cargill Fertilizer Plant. The rapid evacuation of nearly 3,000 area residents resulted in virtually no major injuries to either members of the community or members of the emergency response teams. Steve Zweigart's valuable contributions to the commendable success of this joint endeavor by many different departments and individuals to preserve and protect the community will long be appreciated by his fellow citizens. Therefore, this honorable body is pleased to join Representative Pete Worthington in expressing deep appreciation to this thoughtful and courageous public servant for outstanding performance of his duties on behalf of the citizens of Maysville and the surrounding area. **Legislative Citation No. 26** was adopted without objection.

The following members filed requests to have their names added as co-sponsors to Bills under rules previously suspended: **HB 1,** Representative Pope; **HB 39**, Representatives A. Arnold, D. Graham; **HB 51,** Representatives Baugh, Vincent; **HB 136,** Representatives Pope, Colter; **HB 168, HB 315,** Representative Callahan; **HB 289,** Representative Pope; **HB 291, HB 302,** Representative Walton; **HB 303**, Representative Marcotte.

Announcements

The following meetings were announced:

Health and Welfare, Room 131, 10:00 a.m., January 20, 1998.

Appropriations and Revenue, 2:30 p.m., January 20, 1998.

Capitol Projects Oversight, 12:30 p.m., Room 129, January 20, 1998.

Minority Caucus, 3:00 p.m., Room 113, January 20, 1998.

State Government, 2:00 p.m., January 20, 1998.

The following meeting was canceled:

Economic Development, January 19, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., January 20, 1998.

On the roll call the vote was **Yeas 74**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Brandstetter, Brown, Bruce, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Haydon, Hoffman, Hoover, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Palumbo, Polston, Pope, Rader, Ratliff, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 5**--Bratcher, Crall, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

TUESDAY, JANUARY 20, 1998

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hilton, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Reinhardt, and Worthington.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 16, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 317, by Representative Damron: AN ACT relating to property tax.

HB 318, by Representatives Damron, Stumbo, A. Arnold, Gooch, Bruce, Ford, Newsome, Murgatroyd, Maricle, Gray, Anderson, Treesh, Stewart, Worthington, Brown, Turner, Colter, Siler, P. Clark, Reinhardt, Kerr, and Napier: AN ACT relating to carrying concealed deadly weapons.

HB 319, by Representatives Richards, L. Clark, Barrows, Stumbo, Callahan, and Moberly: AN ACT making appropriations for operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

HB 320, by Representatives Richards, L. Clark, Barrows, Stumbo, Callahan, and Moberly: AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

HB 321, by Representatives Richards, L. Clark, Barrows, Stumbo, Callahan, and Moberly: AN ACT relating to appropriations providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies and other state supported activities.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 312, HB 315**

Counties and Special Districts: **HB 310**

Education: **HB 307, HB 308**

Judiciary: **HB 313, HB 314, HB 316**

Labor and Industry: **HB 305**

State Government: **HB 306, HB 309, HR 44, HCR 45, HCR 46**

Transportation: **HB 311**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 43**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 123, HB 94**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 52**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 240** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 240, AN ACT relating to income tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
- (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
- (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;~~[and]~~
- (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
  - 2. The "applicable amount" shall be:
    - a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(i) Exclude for taxable years beginning after December 31, 1997, to the extent not already excluded from gross income, any amounts paid during the taxable year for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

The Committee on Health and Welfare reported **HB 142**, with Committee Title Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 142, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.010 is amended to read as follows:

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

(2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:

(a) The Commonwealth shall direct its efforts to ***promoting protection of vulnerable children; to*** the strengthening and encouragement of family life for the protection and care of children; to strengthen and maintain the biological family unit; and to offer all available resources to any family in need of them;

(b) It also shall be declared to be the policy of this Commonwealth that all efforts shall be directed toward providing each child a safe and nurturing home;

(c) The court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary;

(d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his condition; and

(e) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, such protections belong to the child individually and may not be waived by any other party.

Section 2. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing physical or emotional needs of the child for extended periods of time, including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(f) Abandons or exploits ***the***~~[such]~~ child; ***or***

(g) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing ***the person's***~~[his]~~ religious beliefs shall not be considered a negligent parent solely because ***of failure***~~[he fails]~~ to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer

for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for Human Resources;

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 3. KRS 605.090 is amended to read as follows:

(1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of ***the child's***~~[his]~~ parents, ***in the home of a relative,*** a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a family service worker or juvenile probation and parole officer. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;

(c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c), or (d) or any child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;

(d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of ***the child's***[~~his~~] parents, the child shall not be removed except in accordance with the following standards and procedures:

(a) If the family service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the family service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the family service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a family service worker finds a committed, unattended child who is too young to take care of himself, the family service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the family service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the family service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(3) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(4) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(5) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Section 4. KRS 620.060 is amended to read as follows:

(1) The court for the county where the child is present may issue an ex parte emergency custody order when it appears to the court ***that removal is in the best interest of the child and*** that there are reasonable grounds to believe, as supported by affidavit or by recorded sworn testimony, that ***one (1) or more of the following conditions exist***[~~the child is in danger of imminent death or serious physical injury or is being sexually abused~~] and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child***;***

(a) The child is in danger of imminent death or serious physical injury or is being sexually abused;

(b) The parent has repeatedly inflicted or allowed to be inflicted by other than accidental means physical injury or emotional harm; or

(c) The child is in immediate danger due to the parent's failure or refusal to provide for the safety or physical needs of the child.

(2) Custody may be placed with a relative taking into account the wishes of the custodial parent ***and child*** or any other appropriate person or agency including the cabinet.

(3)[~~(2)~~] An emergency custody order shall be effective no longer than seventy-two (72) hours, exclusive of weekends and holidays, unless there is a temporary removal hearing with oral or other notice to the county attorney and the parent or other person exercising custodial control or supervision of the child, to determine if the child should be held for a longer period. The seventy-two (72) hour period also may be extended or delayed upon the waiver or request of the child's parent or other person exercising custodial control or supervision.

(4)[~~(3)~~] Any person authorized to serve process shall serve the parent or other person exercising custodial control or supervision with a copy of the emergency custody order. If such person cannot be found, the sheriff shall make a good faith effort to notify the nearest known relative, neighbor, or other person familiar with the child.

(5)[~~(4)~~] Within seventy-two (72) hours of the taking of a child into custody without the consent of his parent or other person exercising custodial control or supervision, a petition shall be filed pursuant to this chapter.

(6)[~~(5)~~] Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules of Criminal Procedure.

Section 5. KRS 620.130 is amended to read as follows:

(1) In any proceeding under this chapter, when the court is petitioned to remove or continue the removal of a child from the custody of his parent or other person exercising custodial control or supervision, the court shall first consider whether the child may be reasonably protected against the alleged dependency, neglect or abuse, by alternatives less restrictive than removal. Such alternatives may include, but shall not be limited to, the provision of medical, educational, psychiatric, psychological, social work, counseling, day care, or homemaking services with monitoring wherever necessary by the cabinet or other appropriate agency. Where the court specifically finds that such alternatives are adequate to reasonably protect the child against the alleged dependency, neglect or abuse, the court shall not order the removal or continued removal of the child.

(2) If the court orders the removal or continues the removal of the child, services provided to the parent and the child shall be designed to promote the ***protection of the child and the*** return of the child ***safely*** to ***the child's***[~~his~~] home as soon as possible. The cabinet shall develop a treatment plan for each child designed to meet the needs of the child. The cabinet may change the child's placement or treatment plan as the cabinet may require. The cabinet shall notify the committing court of the change, in writing, within fourteen (14) days after the change has been implemented.

Section 6. KRS 620.155 is amended to read as follows:

(1) Any party aggrieved by a proceeding under KRS 610.010(1)(e) may appeal from the juvenile court to the Circuit Court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The Circuit Court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his parents, guardian, or other person party to the appeal.

(2) The cabinet may appeal from the juvenile court to the Circuit Court as a matter of right any case in which the cabinet is the petitioner.

SECTION 7. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) Any evidence of the following circumstances are relevant factors that shall be considered by the court in all proceedings conducted pursuant to KRS Chapter 620 in which the court is required to render decisions in the best interest of the child:

(a) Mental illness or mental retardation of the parent, as attested to by a qualified mental health professional, which renders the parent unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child;

(c) Alcohol and other drug abuse, as defined in KRS 222.005(12), that results in an incapacity by the parent or caretaker to provide essential care and protection for the child;

(d) A past or present finding of domestic violence and abuse as defined in KRS 403.720, whether or not committed in the presence of the child;

(e) Any other crime committed by a parent which results in the death or permanent physical or mental disability of a member of that parent's family or household; and

(f) The existence of any guardianship or conservatorship of the parent pursuant to a determination of disability or partial disability as made under KRS 387.500 to 387.770 and 387.990.

(2) In determining the best interest of the child, the court may consider the effectiveness of rehabilitative efforts made by the parent or caretaker intended to address circumstances in this section.

Section 8. KRS 610.125 is amended to read as follows:

(1) If a child has been removed from the home and placed in the custody of the Department of Juvenile Justice or the cabinet, a judge of the District Court shall conduct a ***permanency***[~~dispositional review~~] hearing no later than ***twelve (12)***[~~eighteen (18)~~] months after ***the date the child is considered to have entered foster care***[~~custody is given to the cabinet~~], and annually thereafter if custody and out-of-home placement continues, to determine the future status of the child. ***For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty (60) days after the date on which the child is removed from the home.***

The court shall address the following areas:

(a) If parental rights have not been terminated, whether the child should be returned to the parent;

(b) Whether the child should continue in out-of-home care for a specified period of time;

(c) Whether the child should be placed for adoption; and

(d) Whether special circumstances indicate that the child's needs can best be met by continuation in out-of-home care on a permanent or long-term basis.

(2) ***If the cabinet or the Department of Juvenile Justice determines that reasonable efforts to reunify the child with the child's family will not be made, the cabinet or Department of Juvenile Justice shall file a case permanency plan as defined by KRS 620.230 or case progress report with the court that documents the reasons for not making reasonable efforts. The court shall hold a permanency hearing within thirty (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or report with the Court.***

(3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section***, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court***. The court shall set a time for the hearing and notify the child's parent***, foster parents, preadoptive parents or relatives providing care to the child; court-appointed special advocate; foster care review board member assigned to the case;*** and the Department of Juvenile Justice or the cabinet.

(4)[~~(3)~~] The Department of Juvenile Justice or the cabinet shall present evidence to the court concerning the care and progress of the child since the last ***permanency***[~~dispositional~~] hearing, including the following:

(a) The length of time the child has been committed to the Department of Juvenile Justice or the cabinet;

(b) The number, location, and date for each placement during the total period of the child's commitment;

(c) A description of the services and assistance provided to the parent or arranged by the Department of Juvenile Justice or the cabinet since the last case permanency plan or case progress report, and the results achieved;

(d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;

(e) The familial and institutional barriers to:

1. Returning the child to the home;

2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and

3. Delivery of appropriate services needed by the child;

(f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of sixteen (16) years;

(g) An evaluation of the child's current placement and services provided to the child;

(h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement; and

(i) Recommendations as to the permanency goal for the child.

(5)[~~(4)~~] The child's parent***, foster parent, preadoptive parent, or relative providing care to the child,*** may present any evidence relevant to the determination of a permanency goal for the child.

(6)[~~(5)~~] Upon conclusion of the hearing the court shall make a written ***finding*** [~~determination~~] regarding ***the adequacy of the permanency plan, the extent to which the permanency plan complies with KRS 620.230(2), and the services***

intended to achieve permanency for the child[~~a plan of transitional independent living services if the child has reached the age of sixteen (16) years, and the most appropriate permanency goal if the child has not reached the age of sixteen (16) years~~].

(7) If the court finds that the permanency plan is not adequate, it shall redocket the case within sixty (60) days for further review.

Section 9. KRS 625.0405 is amended to read as follows:

(1) A parent desiring the termination of his or her parental rights and a transfer of the parental rights to a person, persons, ***the cabinet,*** or ***a child-placing*** agency ***licensed by the cabinet*** for the purpose of adoption may prior to or upon the filing of the petition request the Circuit Court to appoint an attorney to represent the parent and provide legal representation in the termination action. If the court determines pursuant to KRS Chapter 31 that the requesting parent is indigent, the court shall appoint an attorney (within forty-eight (48) hours) to represent the indigent parent. The attorney for the indigent parent shall receive a fee to be fixed by the court, not to exceed five hundred dollars ($500) and assessed as costs, and ***the court*** may order the costs to be paid by the proposed adoptive parent, parents, or agency before the entry of a judgment of termination, except the attorney's fee shall be paid by the Finance and Administration Cabinet if termination is not granted***, or if custody of the child is placed with the cabinet***.

(2) (a) In every voluntary termination proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parent for any purpose related to a termination of parental rights shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of the expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the prospective adoptive parents shall not have any claim against the prospective adoptive parents for the amount not approved.

(3) Any person who violates subsection (2) of this section shall be guilty of a Class A misdemeanor.

Section 10. KRS 625.042 is amended to read as follows:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the Circuit Court shall set a date for a hearing ***which shall not be more than thirty (30) calendar days after the petition is filed. In any case in which the child's permanent custody is proposed to be transferred to an individual not excepted by KRS 199.470(4) or (5), a final order of termination shall be entered only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement as required by KRS 199.473***.

(2) The Circuit Court shall require notice to be served upon the local representative of the cabinet in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual unless the placement has been approved by the cabinet. It shall not be necessary to serve notice upon the cabinet if custody of the child is to be placed with the cabinet or with a child-placing agency.

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the Circuit Court privately for the purpose of determining the facts.

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interests of the child shall be considered paramount.

(6) At the time of the hearing, the Circuit Court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

Section 11. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ..., a child." The petition may be filed by a parent ***or counsel when the Appearance, Waiver and Consent to Adopt forms are signed by the parent, counsel, and cabinet representative under the conditions described in subsections (3) and (4) of Section 12 of this Act***.

(2) The petition for the voluntary termination of parental rights shall be filed in the Circuit Court of the ***Judicial Circuit***[~~county~~] where the petitioner ***or child*** resides ***or in the Circuit Court in the county in which juvenile court actions, if any, concerning the child have commenced,***[~~or is found~~] and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex, date of birth, and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet, or authorized agency to whom custody is to be given has facilities available, is willing to receive the custody of the child, and the person, if not excepted by KRS 199.470(4) or (5), has applied for the written permission of the secretary or the secretary's designee for the child's placement. This provision shall not affect the right of a court to grant temporary custody under KRS 199.473.

(3) No petition may be filed under this chapter prior to three (3) days after the birth of the child.

Section 12. KRS 625.041 is amended to read as follows:

(1) The ***parties***[~~only party~~] to an action for voluntary termination of parental rights shall be the parent seeking termination, ***or counsel for the parent when an Appearance, Waiver and Consent to Adopt form is filed with the petition,*** but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the Cabinet for Human Resources receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

(3) The parent may sign an Appearance, Waiver and Consent to Adopt form when the parent chooses not to attend a voluntary termination of parental rights proceedings. This form shall:

(a) Be witnessed by the cabinet;

(b) Be notarized for the parent's signature;

(c) Contain a statement of agreement signed by the parent, counsel for the parent, and the cabinet; and

(d) Contain any address to which the parent requests the final decree to be served.

(4) If a joint petition is filed, counsel shall designate an attorney for both parties.

Section 13. KRS 625.060 is amended to read as follows:

(1) In addition to the child, the following shall be the parties in an action for involuntary termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner; and

(c) The biological parents, if known and if their rights have not been previously terminated. It shall not be necessary to make the putative father a party if he is exempted by KRS 625.065.

(2) Any party ***other than the child*** who is not the petitioner shall be a respondent.

Section 14. KRS 625.070 is amended to read as follows:

(1) In any action for involuntary termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky Rules of Civil Procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and filed in the record, ~~or~~ an order terminating parental rights has been entered by a Circuit Court of competent jurisdiction.

(3) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, ***appointment of a guardian ad litem for a child in an action for termination of parental rights, and service of the petition upon the guardian ad litem shall be sufficient for personal jurisdiction over the child in the action***[~~Service upon a child committed to the cabinet shall be made upon the cabinet~~].

Section 15. KRS 625.080 is amended to read as follows:

In any involuntary action for termination of parental rights:

(1) The Circuit Court shall conduct a private hearing. An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years. The court shall make findings of fact and conclusions of law to support its judgment;

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed to represent the best interests of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars ($500), to be paid by the Finance and Administration Cabinet ***when the cabinet is the proposed custodian. When the cabinet is not the proposed custodian, the court may order the cost to be paid by the proposed adoptive parent, parents, agency, or the petitioner***. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interests of the child. In its discretion, the Circuit Court may interview the child in private, but a record of the interview shall be made, which, in the discretion of the court, may be sealed to be used only by an appellate court;

(3) The parents have the right to legal representation in involuntary termination actions. If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation, ***upon the request of the parent,*** the Circuit Court shall determine if ***the***[~~said~~] parent is indigent and, therefore, entitled to counsel pursuant

to KRS Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the parent; and, upon request, if it appears reasonably necessary in the interest of justice, the Circuit Court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided or paid for by the Finance and Administration Cabinet a fee to be set by the court and not to exceed five hundred dollars ($500);

(4) ***If the parent is currently authorized to visit with the child, the court may continue to permit the parent to visit the child pending the final hearing unless it finds that visitation would not be in the best interest of the child.***

(5) The hearing[~~Proceedings~~] under this chapter shall be ***held within sixty (60) days of the motion by a party or the guardian ad litem for a trial date,*** expedited***,*** and completed as soon as practicable.

Section 16. KRS 625.090 is amended to read as follows:

(1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that***:***

(a) 1. The child has been adjudged to be an abused or neglected child***, as defined in KRS 600.020(1),*** by a court of competent jurisdiction***;***

2. The child or is found to be an abused or neglected child***, as defined in KRS 600.020(1),*** by the Circuit Court in this proceeding***; or***

3. The parent has been convicted of a criminal charge relating to the physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional harm to the child named in the present termination action is likely to occur if the parental rights are not terminated; and

(b) [~~that~~]Termination would be in the best interest of the child.

(2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) ***That the parent has been convicted of a felony that involved the infliction of serious physical injury to a child named in the present termination action;***

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(f)[~~(e)~~] That the parent has caused or allowed the child to be sexually abused or exploited;[~~ or~~]

(g)[~~(f)~~] That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child***;***

(h) That:

1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and

3. The condition or factor which was the basis for the previous termination finding has not been corrected; or

(i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect.

(3)[~~(2)~~] In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:

(a) Emotional illness, mental illness, or mental ***retardation*** deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet***, whether the cabinet has, prior to the filing of the petition made***

reasonable efforts as defined in KRS 620.020 to reunite the child with the parents, or a child-placing agency or child-caring facility, whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning the services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(4) If the child has been placed with the cabinet, the parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.

(5)[~~(3)~~] If the parent proves ***by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent, and proves*** the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

(6)[~~(4)~~] Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law***,*** and a decision as to each parent-respondent ***within thirty (30) days*** either:

(a) Terminating the right of the parent; or

(b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

SECTION 17. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

In the case of a child who has become a ward of the Cabinet for Human Resources as a result of a termination of parental rights judgment entered against the child's parents, and who remains a ward of the cabinet upon attainment of his or her eighteenth birthday, the cabinet, in its discretion, upon request of the ward, may extend its wardship to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs or to assist the child in establishing independent living arrangements.

Section 18. KRS 199.502 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent had inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) ***That the parent has been convicted of a felony that involved the infliction of serious physical injury to a child named in the present adoption proceeding;***

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(f)[~~(e)~~] That the parent has caused or allowed the child to be sexually abused or exploited;[~~or~~]

(g)[~~(f)~~] That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child***;***

(h) That:

1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present adoption proceeding was born subsequent to or during the pendency of the previous termination; and

3. The condition or factor which was the basis for the previous termination finding has not been corrected; or

(i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect.

(2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision either:

(a) Granting the adoption without the biological parent's consent; or

(b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.

The Committee Title Amendment No. 1 to **HB 142** is as follows:

by amending the title to read as follows: "AN ACT relating to child protection and declaring an emergency."

The Committee on State Government reported **HB 51, HB 109, HB 110,** and **HB 135** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 51, AN ACT relating to approval of capital projects and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. In accordance with the provisions of KRS 45.750 to 45.816 relating to capital construction projects, the General Assembly approves, authorizes, and appropriates the following capital projects and amounts:

		FY 1998-99	FY 1999-2000
(a)	120 bed Veterans Nursing Home/Finance and Administration Cabinet.		
	General Fund	4,725,000	
	Federal Funds	8,776,000	
Total		13,501,000	
(b)	120 bed Veterans Nursing Home/Finance and Administration Cabinet.		
	General Fund		4,725,000
	Federal Funds		8,776,000
Total			13,501,000

Section 2. The General Assembly appropriates the following amounts for the general operations of the Western Kentucky and Eastern Kentucky Veterans Nursing Homes:

		FY 1998-99	FY 1999-2000
(a)	120 bed Veterans Nursing Home/Finance and Administration Cabinet.		
	General Fund	300,000	850,000
(b)	120 bed Veterans Nursing Home/Finance and Administration Cabinet.		
	General Fund		300,000

HB 109, AN ACT relating to parks funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.810 is amended to read as follows:

(1) Funds in the park capital maintenance and renovation fund shall be used for the maintenance and renovation of park facilities. Maintenance shall include equipment purchases, used primarily in the maintenance of ***infrastructure and*** park

facilities, and expenditures related to preventative maintenance of capital assets. Renovation includes the replacement of depreciable assets, including furnishings, and purchase of depreciable assets which enhance the quality of the parks.

(2) In no case shall the ***moneys from the*** fund be expended on***:***

(a) New capital project construction;[~~a capital expansion item.~~]

(b) Any new maintenance or renovation project estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration; or

(c) Any new item of equipment estimated to cost one hundred thousand dollars ($100,000) or more in cash or other consideration.

(3) Moneys in the park capital maintenance and renovation fund may be used to provide additional funding for any capital project, as defined in KRS 45.750, that received line item authorization from the General Assembly in any executive branch budget bill only if the state budget director or the director's designee submits the proposed allocation to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting, in accordance with the provisions of KRS 45.800.

(4) Notwithstanding the provisions of KRS 45.760(13), moneys in the park capital maintenance and renovation fund shall not be used to provide additional funding for any capital project, as defined in KRS 45.750, that received line item authorization from the General Assembly in any executive branch budget bill, and that has already received maximum additional funding as permitted by KRS 45.760(13) unless the state budget director or the director's designee submits the proposed allocation to the Capital Project and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting, in accordance with the provisions of KRS 45.800. In addition to the requirements of KRS 45.800, the submission shall include a written certification that:

(a) Due to extraordinary circumstances, which shall be described, additional funds are necessary for the project to be completed in a manner that will allow it to serve its intended purpose; and

(b) The use of funds from the parks capital maintenance and renovation fund do not unduly compromise the routine maintenance and renovation needs that the fund was created to address.

(5)[~~(2)~~] The commissioner shall, by September 1 of each year[~~ prior to the next regular session of the General Assembly~~], report to the Legislative Research Commission the receipts***,***[~~ and~~] expenditures***, and any amounts carried forward for the fiscal year ending on June 30 of that year*** from the fund established in KRS 148.800.

HB 110, AN ACT relating to maintenance of state assets.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 45.750 TO 45.810 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the capital construction fund the "Statewide Deferred Maintenance Fund". The fund shall be used as a supplemental source for funding deferred maintenance and government mandate needs of state agencies. Maintenance includes equipment used primarily for maintenance purposes and expenditures related to deferred maintenance of infrastructure and capital assets. The balance of any moneys remaining in the fund at the close of any fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(2) Priority for the funding from the statewide deferred maintenance fund shall be determined by the secretary of the Finance and Administration Cabinet in consultation with the state budget director and the commissioner of the Department for Facilities Management. State agencies that do not have separate agency-specific maintenance funds or that have inadequate maintenance funds shall be given priority for access to moneys in the statewide deferred maintenance fund.

(3) Moneys from the statewide deferred maintenance fund shall not be expended for:

(a) New capital projects; or

(b) Additional funding for any capital project that received line item authorization by the General Assembly in any branch budget bill.

(4) The secretary shall, by September 1 of each year, report to the Legislative Research Commission all transfers from the fund, including the purpose and amount of each transfer and the amount of funds carried forward for the fiscal year ending on June 30 of that year.

Section 2. KRS 45.780 is amended to read as follows:

(1) There is created within the capital construction fund the emergency repair, maintenance, and replacement account. The account shall consist of moneys appropriated to the fund by the General Assembly.

(2) The Finance and Administration Cabinet may transfer money from the emergency repair, maintenance, and replacement account to the allotment account of an emergency repair, replacement, or maintenance project, for expenditure thereon,

even though the specific project is not included in any branch budget bill, statutory budget memorandum, and biennial budget report enacted for that biennium. ***Moneys may be transferred from the emergency repair, maintenance, and replacement account to the allotment account of an emergency repair, replacement, or maintenance project only if no other funding source is available.***

(3) The Finance and Administration Cabinet shall report each transfer, including the necessity, purpose, and amount of the transfer, to the Capital Projects and Bond Oversight Committee not later than thirty (30) days after the transfer.

HB 135, AN ACT relating to court facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115, unless the context otherwise requires:

(1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, and, at the election of the Administrative Office of the Courts, capital costs of interior or mechanical renovations for the benefit of the court.

(2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, except that if indebtedness has been incurred in respect to such capital costs at ***an***~~[a constant annual]~~ interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies. ***For refinanced projects constructed or renovated prior to July 1, 1994, the use allowance payment shall not change for the term of the original bond issue, unless there is a change in the space occupied. For***~~[Except that in the case of]~~ court facilities renovated or constructed after July 1, 1994, "use allowance" means the court's proportional share of the annual principal and interest cost in connection with the renovation or construction, but not to exceed eight percent (8%) annually of capital costs, or, if there is no debt, four percent (4%) annually of capital costs.

(3) "Capital costs" means the costs borne by the unit of government, excluding grants, conditioned by the grantor agency specifically for court facility construction or renovation, for acquisition of property and for construction and capitalized renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice.

(4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.

(5) "Unit of government" means a county, city, urban-county government, special district, or corporate entity created for the purpose of constructing or holding title to a court facility.

(6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.

(7) "Court facilities standards committee" means a committee consisting of the Chief Justice or his designee; one (1) judge each of the Court of Appeals, the Circuit Court, and the District Court appointed by the Supreme Court; the president of the Circuit Clerks' Association; the chairman of the Judiciary-Civil Committees of the General Assembly; the secretary of the Finance and Administration Cabinet; and a county judge/executive appointed by the Governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

Floor Amendments

Floor Amendment No. 1 to **HB 63**, by Representative Riner:

On page 16, line 16, after "the" the fourth time it appears on that line, by inserting "***employers***" and by placing brackets around and striking through "employer"; and

On page 16, line 17, at the beginning of the line, by inserting "***occupations***" and by placing brackets around and striking through "occupation"; and

On page 16, line 18, at the beginning of the line, by inserting "***names***" and by placing brackets around and striking through "name"; and

On page 18, line 5, after "address," by inserting "***occupations***" and by placing brackets around and striking through "occupation"; and

On page 18, line 6, at the beginning of the line, by inserting "***employers***" and by placing brackets around and striking through "employer"; and

On page 18, line 7, after "the" the second time it appears on that line, by inserting "***names***" and by placing brackets around and striking through "name"; and

On page 18, line 14, after "the" the second time it appears on that line, by inserting "***employers and occupations***" and by placing brackets around and striking through "employer and occupation"; and

On page 18, line 15, after "the" the second time it appears on that line, by inserting "***names***" and by placing brackets around and striking through "name"; and

On page 20, line 4, after "age,", by inserting "***occupations, and employers and the employers***" and by placing brackets around and striking through "occupation, and employer and the employer"; and

On page 20, line 6, after "the" the first time it appears on that line, by inserting "***names***" and by placing brackets around and striking through "name"; and

On page 20, line 12, after "age,", by inserting "***occupations, and employers***" and by placing brackets around and striking through "occupation, and employer"; and

On page 20, line 13, after "the" the first time it appears on that line, by inserting "***names***" and by placing brackets around and striking through "name"; and

On page 21, line 1, after "the" the second time it appears on that line, by inserting "***employers and occupations***" and by placing brackets around and striking through "employer and occupation"; and

On page 27, after line 26, by inserting the following:

"Section 5. KRS 121.160 is amended to read as follows:

(1) As part of the filing papers each candidate or slate of candidates shall, on a duplicate form prescribed and furnished by the registry, designate a campaign treasurer to act as their agent at the time and at the office with which they file as a candidate or slate of candidates and until this requirement is met the candidate or slate of candidates shall be listed as their own treasurer and accountable as such. The candidate or slate of candidates may appoint themselves or any registered voter in Kentucky as the campaign treasurer. The office with which the candidate or slate of candidates is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's or slate's campaign treasurer and shall attach the original to the candidate's or slate's filing papers. The office with which the candidate or slate of candidates files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank in which the primary campaign account shall be maintained and deposit all contributions in that account;

(b) Keep detailed and exact accounts of:

1. Contributions of any amount made by a permanent committee, by name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. Contributions in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, by the date, name, address, ***occupations, and employers***[~~occupation, and employer~~] of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the ***names***[~~name~~] under which he is doing business, and the amount contributed by each contributor; and

3. Contributions in excess of one hundred dollars ($100) made to any candidate other than those specified in subparagraph 2., by name, address, age if under legal voting age, date of the contribution, amount of the contribution, and the ***employers and occupations***[~~employer and occupation~~] of each other contributor. If the contributor is self-employed, the ***names***[~~name~~] under which he is doing business shall be listed. The ***occupations***[~~occupation~~] listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate or slate of candidates. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and ***occupations***[~~occupation~~] of every person or firm to whom made, and shall list the date and amount of the expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of six (6) years from the date he files his last report under KRS 121.180(3)(b)1.; and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate or slate of candidates may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate or slate of candidates shall within three (3) days after receiving notice thereof by certified mail, appoint a successor and shall file his name and address with the registry. The candidate, or slate shall be accountable as their own campaign treasurer if they fail to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate or slate of candidates, but all reports shall be made separately for each individual candidate or slate.

(6) The candidate or slate of candidates may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and shall comply with the reporting provisions of KRS 121.180 and administrative regulations promulgated by the registry.".

Representative Stumbo moved that **HB 142** be recommitted to the Committee on Health and Welfare. Agreed. Representative Stumbo moved that the three day posting requirement be waived on **HB 142** and to allow a meeting of the Committee on Health and Welfare upon Recess. Agreed.

Senate Message

Announcing passage of **SB 5** and **SB 93** (Time: 4:14 p.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 52, HB 23, HB 38, HB 58, HB 112,** and **HB 137** have been posted for passage in the Orders of the Day for January 21, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 136**

Representative Stumbo moved that the rules be suspended to allow the introduction of guests. Agreed.

Orders of the Day

HB 86, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of the Committee Substitute to **HB 86**. Agreed.

Representative Curd moved that **HB 86**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See January 20, 1998 roll call on **HB 86** - Appendix.) **HB 86**, by way of Committee Substitute, was passed and the title agreed to. Representative Curd moved that the vote by which **HB 86**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 104 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 104** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See January 20 , 1998 roll call on **HB 104** - Appendix.) **HB 104** was passed and the title agreed to. Representative Curd moved that the vote by which **HB 104** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 2, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hogancamp moved the adoption of Floor Amendment No. 1 to **HB 2**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 2**. Agreed.

Representative Damron moved that **HB 2**, as amended, be passed.

Representative Stein moved the adoption of Floor Amendment No. 3 to **HB 2**. On the roll call the vote was: Yeas 22, Nays 69. (See January 20, 1998 roll call on Floor Amendment No. 3 to **HB 2** - Appendix.) Floor Amendment No. 3 to **HB 2** was rejected.

Representative Damron moved that **HB 2**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 9 (See January 20, 1998 roll call on **HB 2** - Appendix.) **HB 2**, as amended, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 2**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 185 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved that **HB 185** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See January 20 , 1998 roll call on **HB 185** - Appendix.) **HB 185** was passed and the title agreed to. Representative Lee moved that the vote by which **HB 185** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 176 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Graham moved that **HB 176** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See January 20 , 1998 roll call on **HB 176** - Appendix.) **HB 176** was passed and the title agreed to. Representative D. Graham moved that the vote by which **HB 176** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 28 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Murgatroyd moved that **HB 28** be passed.

On the roll call the vote was: Yeas 90, Nays 2 (See January 20 , 1998 roll call on **HB 28** - Appendix.) **HB 28** was passed and the title agreed to. Representative Murgatroyd moved that the vote by which **HB 28** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HB 315**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 322, by Representative Clarke: AN ACT relating to concealed deadly weapons in state owned and controlled buildings.

HB 323, by Representative Clarke: AN ACT relating to limited sales precincts in cities of the third class.

HB 324, by Representative Lindsay: AN ACT relating to nonprofit health care facilities.

HB 325, by Representative Lindsay: AN ACT relating to relating to the Department of Corrections.

HB 326, by Representative Long: AN ACT relating to solid waste.

HB 327, by Representatives Coleman, Bowling, Lovell, Wilkey, Vincent, and Callahan: AN ACT relating to tax administration.

HB 328, by Representative Long: AN ACT relating to amusement rides and attractions and declaring an emergency.

HB 329, by Representatives R. Adams, Rasche, Haydon, Thomas, Brown, Ballard, Marcotte, Clarke, Gee, Long, Sims, McKee, D. Graham, A. Arnold, Lovell, Weaver, Moberly, and Lee: AN ACT relating to amusement rides and attractions and declaring an emergency.

HB 330, by Representatives Moberly and Stein: AN ACT relating to school safety and declaring an emergency.

HB 331, by Representative Damron: AN ACT relating to enhancement of public safety.

HB 332, by Representatives G. Graham, Barrows, Long, R. Adams, Coleman, Hoffman, and L. Clark: AN ACT relating to the contracting out of government services.

HB 333, by Representatives Jenkins, Marzian, and Jordan: AN ACT relating to the Substance Abuse, Pregnancy and Women of Childbearing Age Work Group.

HR 47, by Representative Stacy: A RESOLUTION adjourning the House of Representatives in memory and honor of Steve Hamilton, Morehead State University's Director of Intercollegiate Athletics.

HR 48, by Representative Hogancamp: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jessica James, Nicole Hadley, and Kayce Steger.

HR 49, by Representative Stumbo: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HJR 50, by Representatives Damron and Cave: A JOINT RESOLUTION directing the Department of Insurance to conduct a comprehensive review of the Insurance Code, KRS Chapter 304, and to report to the Interim Joint Committee on Banking and Insurance.

HR 51, by Representative Maricle: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Michael Laswell.

Report of Committees (Continued)

The Committee on Health and Welfare reported **HB 142**, with Committee Substitute and Committee Title Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Ordered to the Committee on Rules.

The Committee Substitute to **HB 142** is as follows:

HB 142, AN ACT relating to child protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.010 is amended to read as follows:

(1) KRS Chapters 600 to 645 shall be known as the Kentucky Unified Juvenile Code.

(2) KRS Chapters 600 to 645 shall be interpreted to effectuate the following express legislative purposes:

- (a) The Commonwealth shall direct its efforts to ***promoting protection of vulnerable children; to*** the strengthening and encouragement of family life for the protection and care of children; to strengthen and maintain the biological family unit; and to offer all available resources to any family in need of them;
- (b) It also shall be declared to be the policy of this Commonwealth that all efforts shall be directed toward providing each child a safe and nurturing home;
- (c) The court shall show that other less restrictive alternatives have been attempted or are not feasible in order to insure that children are not removed from families except when absolutely necessary;
- (d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his condition; and
- (e) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents, are recognized and all parties are assured prompt and fair hearings. Unless otherwise provided, such protections belong to the child individually and may not be waived by any other party.

Section 2. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian, or other person exercising custodial control or supervision of the child:

(a) Inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means;

(b) Creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means;

(c) Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing physical or emotional needs of the child including, but not limited to, parental incapacity due to alcohol and other drug abuse as defined in KRS 222.005(12);

(d) Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;

(e) Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;

(f) Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;

(g) Abandons or exploits ***the***[~~such~~] child; ***or***

(h) Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing ***the person's***[~~his~~] religious beliefs shall not be considered a negligent parent solely because ***of failure***[~~he fails~~] to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the Justice Cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;

(13) "Court-designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Deadly weapon" has the same meaning as it does in KRS 500.080;

(15) "Department" means the Department for Social Services;

(16) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(17) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(18) "Diversion agreement" means an agreement entered into between a court-designated worker and a child charged with the

commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(19) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(20) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(21) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture, and environment;

(22) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(23) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;

(24) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(25) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(26) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(27) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(28) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(29) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(30) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(31) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(32) "Juvenile holding facility" means a physically secure setting, approved by the Justice Cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the Justice Cabinet may supervise juvenile as well as adult prisoners;

(33) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(34) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189 or 189A, KRS 177.300, 304.39-110, or 304.39-117;

(35) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(36) "Parent" means the biological or adoptive mother or father of a child;

(37) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(38) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(39) "Physical injury" means substantial physical pain or any impairment of physical condition;

(40) "Public offense action" means an action brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony,

misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;

(41) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(42) "Residential treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(43) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(44) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(45) "Secretary" means the secretary of the Cabinet for Human Resources;

(46) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(47) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(48) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily ***member or*** organ ***or of mental faculty***;

(49) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions ~~[between a child and an adult]~~in which the parent, guardian, or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(50) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(51) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(52) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(53) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(54) "Youth alternative center" means a nonsecure facility, approved by the Department of Corrections, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 610.267 and the

administrative regulations promulgated thereunder; and

(55) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

Section 3. KRS 605.090 is amended to read as follows:

(1) Unless precluded by law, any child committed to the Department of Juvenile Justice or the cabinet may by the decision of the Department of Juvenile Justice or the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days' prior written notice to the court, discharged from commitment. Written notice of discharge shall be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of ***the child's***~~[his]~~ parents, ***in the home of a relative,*** a suitable foster home, or boarding home, upon such conditions as the Department of Juvenile Justice or the cabinet may prescribe and subject to visitation and supervision by a family service worker or juvenile probation and parole officer. At the time a committed child is placed in the home of his parents by the Department of Juvenile Justice or the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;

(c) Placed in one (1) of the facilities or programs operated by the Department of Juvenile Justice or the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c), or (d) or any child ten (10) years of age or under shall be placed in a facility operated by the Department of Juvenile Justice for children adjudicated as public offenders;

(d) Placed in a child-caring facility operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section, the Department of Juvenile Justice or the cabinet shall, within fourteen (14) days, excluding weekends and holidays, give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) If a child committed to the cabinet as dependent, neglected, or abused is placed in the home of ***the child's***~~[his]~~ parents, the child shall not be removed except in accordance with the following standards and procedures:

(a) If the family service worker believes that the committed child continues to be dependent, neglected, or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the family service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate, the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the District Court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the family service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental, or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a family service worker finds a committed, unattended child who is too young to take care of himself, the family service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the family service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the District Court to review the case; or

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the family service worker shall, with the assistance of a law enforcement officer, immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in District Court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(3) The cabinet or the Department of Juvenile Justice, as appropriate, shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the Department of Juvenile Justice or the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(4) The person in charge of any home to which a child is probated, and the governing authority of any private facility or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the Department of Juvenile Justice or the cabinet may require in the performance of its functions under the law. The Department of Juvenile Justice or the cabinet shall have the power to make such visitations and inspections of the homes, facilities, and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(5) The Department of Juvenile Justice may assist the courts in placing children who have committed public offenses in boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children and, to the extent authorized by the fiscal court, the Department of Juvenile Justice may incur obligations chargeable to the county for such expenses.

Section 4. KRS 620.060 is amended to read as follows:

(1) The court for the county where the child is present may issue an ex parte emergency custody order when it appears to the court ***that removal is in the best interest of the child and*** that there are reasonable grounds to believe, as supported by affidavit or by recorded sworn testimony, that ***one (1) or more of the following conditions exist***[~~the child is in danger of imminent death or serious physical injury or is being sexually abused~~] and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child***;***

(a) The child is in danger of imminent death or serious physical injury or is being sexually abused;

(b) The parent has repeatedly inflicted or allowed to be inflicted by other than accidental means physical injury or emotional harm; or

(c) The child is in immediate danger due to the parent's failure or refusal to provide for the safety or physical needs of the child.

(2) Custody may be placed with a relative taking into account the wishes of the custodial parent ***and child*** or any other appropriate person or agency including the cabinet.

(3)[~~(2)~~] An emergency custody order shall be effective no longer than seventy-two (72) hours, exclusive of weekends and holidays, unless there is a temporary removal hearing with oral or other notice to the county attorney and the parent or other person exercising custodial control or supervision of the child, to determine if the child should be held for a longer period. The seventy-two (72) hour period also may be extended or delayed upon the waiver or request of the child's parent or other person exercising custodial control or supervision.

(4)[~~(3)~~] Any person authorized to serve process shall serve the parent or other person exercising custodial control or supervision with a copy of the emergency custody order. If such person cannot be found, the sheriff shall make a good faith effort to notify the nearest known relative, neighbor, or other person familiar with the child.

(5)[~~(4)~~] Within seventy-two (72) hours of the taking of a child into custody without the consent of his parent or other person exercising custodial control or supervision, a petition shall be filed pursuant to this chapter.

(6)[~~(5)~~] Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules of Criminal Procedure.

Section 5. KRS 620.130 is amended to read as follows:

(1) In any proceeding under this chapter, when the court is petitioned to remove or continue the removal of a child from the custody of his parent or other person exercising custodial control or supervision, the court shall first consider whether the child may be reasonably protected against the alleged dependency, neglect or abuse, by alternatives less restrictive than removal. Such alternatives may include, but shall not be limited to, the provision of medical, educational, psychiatric, psychological, social work, counseling, day care, or homemaking services with monitoring wherever necessary by the cabinet or other appropriate agency. Where the court specifically finds that such alternatives are adequate to reasonably protect the child against the alleged dependency, neglect or abuse, the court shall not order the removal or continued removal of the child.

(2) If the court orders the removal or continues the removal of the child, services provided to the parent and the child shall be designed to promote the ***protection of the child and the*** return of the child ***safely*** to ***the child's***[~~his~~] home as soon as possible. The cabinet shall develop a treatment plan for each child designed to meet the needs of the child. The cabinet may change the child's placement or treatment plan as the cabinet may require. The cabinet shall notify the committing court of the change, in writing, within fourteen (14) days after the change has been implemented.

Section 6. KRS 620.155 is amended to read as follows:

(1) Any party aggrieved by a proceeding under KRS 610.010(1)(e) may appeal from the juvenile court to the Circuit Court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The Circuit Court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his parents, guardian, or other person party to the appeal.

(2) The cabinet may appeal from the juvenile court to the Circuit Court as a matter of right any case in which the cabinet is the petitioner.

SECTION 7. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

(1) Any evidence of the following circumstances are relevant factors that shall be considered by the court in all proceedings conducted pursuant to KRS Chapter 620 in which the court is required to render decisions in the best interest of the child:

(a) Mental illness or mental retardation of the parent, as attested to by a qualified mental health professional, which renders the parent unable to care for the immediate and ongoing physical or psychological needs of the child;

(b) Acts of abuse or neglect toward any child;

(c) Alcohol and other drug abuse, as defined in KRS 222.005(12), that results in an incapacity by the parent or caretaker to provide essential care and protection for the child;

(d) A past or present finding of domestic violence and abuse as defined in KRS 403.720, whether or not committed in the presence of the child;

(e) Any other crime committed by a parent which results in the death or permanent physical or mental disability of a member of that parent's family or household; and

(f) The existence of any guardianship or conservatorship of the parent pursuant to a determination of disability or partial disability as made under KRS 387.500 to 387.770 and 387.990.

(2) In determining the best interest of the child, the court may consider the effectiveness of rehabilitative efforts made by the parent or caretaker intended to address circumstances in this section.

Section 8. KRS 610.125 is amended to read as follows:

(1) If a child has been removed from the home and placed in the custody of the Department of Juvenile Justice or the cabinet, a judge of the District Court shall conduct a ***permanency***[~~dispositional review~~] hearing no later than ***twelve (12)***[~~eighteen (18)~~] months after ***the date the child is considered to have entered foster care***[~~custody is given to the cabinet~~], and annually thereafter if custody and out-of-home placement continues, to determine the future status of the child. ***For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty (60) days after the date on which the child is removed from the home.***

The court shall address the following areas:

(a) If parental rights have not been terminated, whether the child should be returned to the parent;

(b) Whether the child should continue in out-of-home care for a specified period of time;

(c) Whether the child should be placed for adoption; and

(d) Whether special circumstances indicate that the child's needs can best be met by continuation in out-of-home care on a permanent or long-term basis.

(2) ***If the cabinet or the Department of Juvenile Justice determines that reasonable efforts to reunify the child with the child's family will not be made, the cabinet or Department of Juvenile Justice shall file a case permanency plan as defined by KRS 620.230 or case progress report with the court that documents the reasons for not making reasonable efforts. The court shall hold a permanency hearing within thirty (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or report with the Court.***

(3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section***, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court***. The court shall set a time for the hearing and notify the child's parent***, foster parents, preadoptive parents or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case,*** and the Department of Juvenile Justice or the cabinet.

(4)[~~(3)~~] The Department of Juvenile Justice or the cabinet shall present evidence to the court concerning the care and progress of the child since the last ***permanency***[~~dispositional~~] hearing, including the following:

(a) The length of time the child has been committed to the Department of Juvenile Justice or the cabinet;

(b) The number, location, and date for each placement during the total period of the child's commitment;

(c) A description of the services and assistance provided to the parent or arranged by the Department of Juvenile Justice or the cabinet since the last case permanency plan or case progress report, and the results achieved;

(d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;

(e) The familial and institutional barriers to:

1. Returning the child to the home;

2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and

3. Delivery of appropriate services needed by the child;

(f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of sixteen (16) years;

(g) An evaluation of the child's current placement and services provided to the child;

(h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement; and

(i) Recommendations as to the permanency goal for the child.

(5)[~~(4)~~] The child's parent***, foster parent, preadoptive parent, or relative providing care to the child,*** may present any evidence relevant to the determination of a permanency goal for the child.

(6)[~~(5)~~] Upon conclusion of the hearing the court shall make a written ***finding*** [~~determination~~] regarding ***the adequacy of the permanency plan, the extent to which the permanency plan complies with KRS 620.230(2), and the services intended to achieve permanency for the child***[~~a plan of transitional independent living services if the child has reached the age of sixteen (16) years, and the most appropriate permanency goal if the child has not reached the age of sixteen (16) years~~].

(7) If the court finds that the permanency plan is not adequate, it shall redocket the case within sixty (60) days for further review.

Section 9. KRS 625.0405 is amended to read as follows:

(1) A parent desiring the termination of his or her parental rights and a transfer of the parental rights to a person, persons, ***the cabinet,*** or ***a child-placing*** agency ***licensed by the cabinet*** for the purpose of adoption may prior to or upon the filing of the petition request the Circuit Court to appoint an attorney to represent the parent and provide legal representation in the termination action. If the court determines pursuant to KRS Chapter 31 that the requesting parent is indigent, the court shall appoint an attorney (within forty-eight (48) hours) to represent the indigent parent. The attorney for the indigent parent shall receive a fee to be fixed by the court, not to exceed five hundred dollars ($500) and assessed as costs, and ***the court*** may order the costs to be paid by the proposed adoptive parent, parents, or agency before the entry of a judgment of termination, except the attorney's fee shall be paid by the Finance and Administration Cabinet if termination is not granted***, or if custody of the child is placed with the cabinet***.

(2) (a) In every voluntary termination proceeding, the expenses paid, including but not limited to any fees for legal services, placement services, and expenses of the biological parent or parents, by the prospective adoptive parent for any purpose related to a termination of parental rights shall be submitted to the court, supported by an affidavit, setting forth in detail a listing of the expenses for the court's approval or modification.

(b) In the event the court modifies the expense request as it relates to legal fees and legal expenses only, the attorney for the prospective adoptive parents shall not have any claim against the prospective adoptive parents for the amount not approved.

(3) Any person who violates subsection (2) of this section shall be guilty of a Class A misdemeanor.

Section 10. KRS 625.042 is amended to read as follows:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the Circuit Court shall set a date for a hearing ***which shall not be more than thirty (30) calendar days after the petition is filed. In any case in which the child's permanent custody is proposed to be transferred to an individual not excepted by KRS 199.470(4) or (5), a final order of termination shall be entered only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement as required by KRS 199.473***.

(2) The Circuit Court shall require notice to be served upon the local representative of the cabinet in any case in which a

statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual unless the placement has been approved by the cabinet. It shall not be necessary to serve notice upon the cabinet if custody of the child is to be placed with the cabinet or with a child-placing agency.

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the Circuit Court privately for the purpose of determining the facts.

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interests of the child shall be considered paramount***, including but not limited to matters relating to child support***.

(6) At the time of the hearing, the Circuit Court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

Section 11. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ..., a child." The petition may be filed by a parent ***or counsel when the Appearance Waiver and Consent to Adopt forms are signed by the parent, counsel, and cabinet representative under the conditions described in subsections (3) and (4) of Section 12 of this Act***.

(2) The petition for the voluntary termination of parental rights shall be filed in the Circuit Court of the ***Judicial Circuit***[~~county~~] where the petitioner ***or child*** resides ***or in the Circuit Court in the county in which juvenile court actions, if any, concerning the child have commenced,***[~~or is found~~] and shall be verified and contain the following:

  (a) Name and place of residence of each petitioner;

  (b) Name, sex, date of birth, and place of residence of the child;

  (c) Name and relationship of each petitioner to the child;

  (d) A concise statement of the factual basis for the termination of parental rights;

  (e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

  (f) A statement that the person, cabinet, or authorized agency to whom custody is to be given has facilities available, is willing to receive the custody of the child, and the person, if not excepted by KRS 199.470(4) or (5), has applied for the written permission of the secretary or the secretary's designee for the child's placement. This provision shall not affect the right of a court to grant temporary custody under KRS 199.473.

(3) No petition may be filed under this chapter prior to three (3) days after the birth of the child.

Section 12. KRS 625.041 is amended to read as follows:

(1) The ***parties***[~~only party~~] to an action for voluntary termination of parental rights shall be the parent seeking termination, ***or counsel for the parent when an Appearance Waiver and Consent to Adopt form is filed with the petition,*** but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the Cabinet for Human Resources receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.

(3) The parent may sign an Appearance Waiver and Consent to Adopt form when the parent chooses not to attend a voluntary termination of parental rights proceedings. This form, prescribed by the Administrative Office of the Courts, shall:

  (a) Contain a statement of acknowledgment and agreement, regarding the appearance at the proceeding, signed by the parent, counsel for the parent, and the cabinet. If the parent is a minor, the form shall also be signed by the guardian of the minor parent;

  (b) Be notarized for the parent's signature;

  (c) Contain any address to which the parent requests the final decree to be served.

(4) If a joint petition is filed, counsel shall be designated as attorney for both parties.

Section 13. KRS 625.060 is amended to read as follows:

(1) In addition to the child, the following shall be the parties in an action for involuntary termination of parental rights:

  (a) The petitioner;

  (b) The cabinet, if not the petitioner; and

  (c) The biological parents, if known and if their rights have not been previously terminated. It shall not be necessary to make the putative father a party if he is exempted by KRS 625.065.

(2) Any party ***other than the child*** who is not the petitioner shall be a respondent.

Section 14. KRS 625.070 is amended to read as follows:

(1) In any action for involuntary termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky Rules of Civil Procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and filed in the record, or an order terminating parental rights has been entered by a Circuit Court of competent jurisdiction.

(3) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, ***appointment of a guardian ad litem for a child in an action for termination of parental rights, and service of the petition upon the guardian ad litem shall be sufficient for personal jurisdiction over the child in the action***~~[Service upon a child committed to the cabinet shall be made upon the cabinet]~~.

Section 15. KRS 625.080 is amended to read as follows:

In any involuntary action for termination of parental rights:

(1) The Circuit Court shall conduct a private hearing. An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years. The court shall make findings of fact and conclusions of law***,*** ***which may be made on the record,*** to support its judgment;

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed to represent the best interests of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars ($500), to be paid by the Finance and Administration Cabinet ***when the cabinet is the proposed custodian. When the cabinet is not the proposed custodian, the court may order the cost to be paid by the proposed adoptive parent, parents, agency, or the petitioner***. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interests of the child. In its discretion, the Circuit Court may interview the child in private, but a record of the interview shall be made, which, in the discretion of the court, may be sealed to be used only by an appellate court;

(3) The parents have the right to legal representation in involuntary termination actions. ~~[If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation,]~~***Upon the request of the parent,*** the Circuit Court shall determine if ***the***~~[said]~~ parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the parent; and, upon request, if it appears reasonably necessary in the interest of justice, the Circuit Court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided or paid for by the Finance and Administration Cabinet a fee to be set by the court and not to exceed five hundred dollars ($500);

(4) ***If the parent is currently authorized to visit with the child, the court may continue to permit the parent to visit the child pending the final hearing unless it finds that visitation would not be in the best interest of the child.***

(5) ***The hearing***~~[Proceedings]~~ under this chapter shall be ***held within sixty (60) days of the motion by a party or the guardian ad litem for a trial date***~~[, expedited, and completed as soon as practicable]~~.

Section 16. KRS 625.090 is amended to read as follows:

(1) The Circuit Court may involuntarily terminate all parental rights of a parent of a named child, if the Circuit Court finds from the pleadings and by clear and convincing evidence that***:***

- ***(a)*** ***1.*** The child has been adjudged to be an abused or neglected child***, as defined in KRS 600.020(1),*** by a court of competent jurisdiction***;***
  - ***2.*** ***The child***~~[or]~~ is found to be an abused or neglected child***, as defined in KRS 600.020(1),*** by the Circuit Court in this proceeding***; or***
  - ***3.*** ***The parent has been convicted of a criminal charge relating to the physical or sexual abuse or neglect of any child and that physical or sexual abuse, neglect, or emotional harm to the child named in the present termination action is likely to occur if the parental rights are not terminated;*** and
- ***(b)*** ~~[that]~~Termination would be in the best interest of the child.

(2) No termination of parental rights shall be ordered unless the Circuit Court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) ***That the parent has been convicted of a felony that involved the infliction of serious physical injury to any child;***

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(f)[~~(e)~~] That the parent has caused or allowed the child to be sexually abused or exploited;[~~ or~~]

(g)[~~(f)~~] That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child***;***

(h) That:

1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present termination action was born subsequent to or during the pendency of the previous termination; and

3. The conditions or factors which were the basis for the previous termination finding have not been corrected;

(i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect; or

(j) That the child has been in foster care under the responsibility of the cabinet for fifteen (15) of the most recent twenty-two (22) months preceding the filing of the petition to terminate parental rights.

(3)[~~(2)~~] In determining the best interest of the child and the existence of a ground for termination, the Circuit Court shall consider the following factors:

(a) Emotional illness, mental illness, or mental ***retardation***[~~deficiency~~] of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet***, whether the cabinet has, prior to the filing of the petition made reasonable efforts as defined in KRS 620.020 to reunite the child with the parents***[~~or a child placing agency or child caring facility, whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning the services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child~~];

(d) The efforts and adjustments the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional, and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(4) If the child has been placed with the cabinet, the parent may present testimony concerning the reunification services offered by the cabinet and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent.

(5)[~~(3)~~] If the parent proves ***by a preponderance of the evidence that the child will not continue to be an abused or neglected child as defined in KRS 600.020(1) if returned to the parent***[~~the following to the satisfaction of the court,~~] the court in its discretion may determine not to terminate parental rights[~~:~~

~~(a) That serious physical injury to the child will not occur in the future;~~

~~(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or~~

~~(c) That sexual abuse or exploitation will not occur in the future~~].

(6)[~~(4)~~] Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law***,*** and a decision as to each parent-respondent ***within thirty (30) days*** either:

(a) Terminating the right of the parent; or

(b) Dismissing the petition and stating whether the child shall be returned to the parent or shall remain in the custody of the state.

SECTION 17. A NEW SECTION OF KRS CHAPTER 625 IS CREATED TO READ AS FOLLOWS:

In the case of a child who has become a ward of the Cabinet for Human Resources as a result of a termination of parental rights judgment entered against the child's parents, and who remains a ward of the cabinet upon attainment of his or her eighteenth birthday, the cabinet, in its discretion, upon request of the ward, may extend its wardship to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs or to assist the child in establishing independent living arrangements.

Section 18. KRS 199.502 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:

(a) That the parent has abandoned the child for a period of not less than ninety (90) days;

(b) That the parent had inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) ***That the parent has been convicted of a felony that involved the infliction of serious physical injury to a child named in the present adoption proceeding;***

(e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(f)[~~(e)~~] That the parent has caused or allowed the child to be sexually abused or exploited;[~~ or~~]

(g)[~~(f)~~] That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child***;***

(h) That:

1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present adoption proceeding was born subsequent to or during the pendency of the previous termination; and

3. The condition or factor which was the basis for the previous termination finding has not been corrected; or

(i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect.

(2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision either:

(a) Granting the adoption without the biological parent's consent; or

(b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.

Section 19. Whereas it is critical to provide needed protective services to children of the Commonwealth as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Counties and Special Districts: **HB 15**

Transportation: **HB 17, HB 248, HB 264, HB 265, HB 288, HB 149**

Labor and Industry: **HB 305**

Motions, Petitions and Communications (Continued)

Representative Hogancamp moved the adoption of the following **HR 48**:

HR 48, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Jessica James, Nicole Hadley, and Kayce Steger.

WHEREAS, it is with heavy hearts and deep sadness when we reflect upon the tragic occurrence on December 1, 1997, at Heath High School in Paducah, Kentucky, where Jessica James, Nicole Hadley, and Kayce Steger were murdered; where Missy Jenkins became paralyzed; and where Shelley Schaburg, Kelly Hard, Craig Keene, and Hollan Holm were wounded; and

WHEREAS, the victims of this senseless crime were devout, Christian young people who, because of their dedication to Jesus Christ and the love that they held for their fellow students, exercised their constitutional right to assemble in prayer each day before classes began; and

WHEREAS, through unselfish commitment to their Christian belief, and the examples they demonstrated daily, these young people are considered role models and heroes in a time where there are so few; and

WHEREAS, the passing of Jessica James, Nicole Hadley, and Kayce Steger has left a void that cannot be filled, and they are mourned across the length and breadth of the Commonwealth and this great nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the tragic passing of Jessica James, Nicole Hadley, and Kayce Steger, and we do extend to their families our most heartfelt sympathy. Our deepest prayers are also extended to the remaining young people who were victimized by this occurrence, Missy Jenkins, Shelley Schaburg, Kelly Hard, Craig Keene, and Hollan Holm.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Jessica James, Nicole Hadley, and Kayce Steger.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Representative Kathy Hogancamp for presentation to the families of these courageous and loving young people.

There being no objection **HR 48** was adopted. Representative Hogancamp moved that a call of the roll be taken to show co-sponsors of **HR 48** (See January 20, 1998 co-sponsor roll calls - Appendix.)

Pursuant to **HR 49**, the Speaker appointed the following committee to wait upon the Governor: Representatives Thomas, Hatcher, Haydon, Murgatroyd, Stein, Hoover, and Mason.

Representative Stacy moved that **HR 47** be withdrawn. Agreed.

Representative Lovell moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lovell moved that he be recorded as voting "yea" on **HB 154, HB 6, HB 53, HB 198,** and **HB 199**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Geveden moved that he be recorded as voting "yea" on **HB 154, HB 199, HB 6, HB 53,** and **HB 198**. Agreed.

Representative Bowling moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Bowling moved that he be recorded as voting "yea" on **HB 154, HB 53, HB 199,** and **HB 198**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 11**, Representative R. Adams; **HB 51**, Representatives Haydon, Pope, Bruce; **HB 52**, Representatives Damron, Gooch; **HB 54**, Representative Bratcher; **HB 58**, Representative Lindsay; **HB 66**, Representative Crimm; **HB 168**, Representative McKee; **HB 173**, Representative Gray; **HB 225**, Representative Bratcher; **HB 282**, Representative Brown; **HB 313**, Representative Treesh.

The following member filed a request to have his name withdrawn as a co-sponsor: **HB 69**, Representative Yonts.

Recess

Representative Stumbo moved that the House recess until 7:00 p.m. to receive the Governor's budget message. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to grant floor privileges to the Constitutional Officers and invited guests. Agreed.

Representative Stumbo moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

Representative Stumbo moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House Chamber to address the Joint Session, appeared with the Governor.

Governor Paul E. Patton addressed the Joint Session of the General Assembly as follows:

Budget Address

by

Governor Paul E. Patton

Tuesday, January 20, 1998 - 7:00 p.m.

Speaker Richards, President Saunders and members of the General Assembly, Justice Stephens and members of the Judiciary, Governor Henry and other members of the Executive, my fellow Kentuckians.

During these next several weeks, we'll debate as many as a thousand subjects, and pass hundreds of bills which will change the public policy of Kentucky. As important as many of these bills will be, none can compare in importance to the budget and the revenue base which supports it. I appreciate the opportunity to discuss our proposed budget with you, and the people of Kentucky.

This proposal outlines how I believe we should spend, over the next two years, 31 and a half billion dollars, almost as much as the annual budget of the United States just 57 years ago, more than the entire social security budget in 1970, and equal to this year's entire federal education budget.

We're the biggest business in the state, one of the largest enterprises in the nation. Bigger than Humana, Vencor and Lexmark combined. Anyway you look at it, we spend a lot of money.

Developing this budget proposal was an awesome responsibility. The task of improving it, and making it the official public policy of the commonwealth now rests with you.

Where we spend our money is, for the most part, a matter of judgement. That final judgement lays with the people, and they've sent you here to exercise that responsibility on their behalf. I fully understand that. But you have to have some place to start, and that's what I present to you tonight, a starting point.

I know it's not perfect, but I know it'll be better after it's gone through that magnificent creation of our founding fathers, the legislative process.

Before I get down to the specifics, let's talk about what a budget is. In one sense of the word it's an authorization for the various branches of government to spend our revenue on specific things or services. But more than that, it's a promise by the government to deliver needed services to the people.

One of the most respected traits of human behavior is the commitment to keeping a promise. If an individual breaks a promise to us it's hard to have faith in what that person says after that.

The same is true of government. When our government promises, through its budget, to deliver a service that we need and want and then doesn't deliver, it breaks a promise too, and we feel betrayed. It doesn't matter that the cause was a lower revenue estimate than expected, it's still a promise broken.

It's better to be conservative and not make the promise until you're reasonably sure the money's going to be there, than it is to betray the people and cause them to lose faith in their government. It's my intention to keep every promise made in this proposal!!!!

Most of you've heard me say many times that the overall goal I'd like to achieve, during whatever time I have to occupy this office, is to put Kentucky on the path to attaining a standard of living and a quality of life comparable to the country as a whole. I know we can't achieve that in one term or even two, but I do believe that if we have the vision to see into the next generation, the freedom of mind to imagine Kentucky, not as it is but as it could be, and the courage to do what it takes to get us there, then we could build that kind of Kentucky and it could be here within the lifetime of most of us in this chamber!!!

Shortly after taking office, we spent a considerable amount of time working with our cabinet to develop a specific plan to achieve our overall goal. The result of that effort, was the development of five specific strategies, all designed to move the commonwealth forward. We put those five strategies in this book and we all keep it close to us, so we can be sure that our actions are actually helping us achieve our goal. These five strategies are:

Enhance Economic Development. Improve the product of our educational system. Build self-sustaining families. Reduce crime and improve the financial condition of the state.

I can report to you tonight that this proposal supports all of these strategies.

The success of the first four of these objectives depends on achieving the fifth. One of our highest priorities has been to establish sound fiscal policies that would eliminate the constant cycle of optimistic budgets and recurring revenue shortfalls. In the fourteen years since 1980 we've had 10 revenue shortfalls. That's no way to run a railroad.

To address this problem we've developed four fundamental principles of fiscal management. These are:

(1) conservative, independent revenue forecasts (2) a structurally balanced budget (3) an adequate budget reserve trust fund and a fiscally responsible and (4) logical capital investment program.

Dr. Ramsey, Merl Hackbart, and I are preparing a white paper on the details of this strategy for those who are interested in details.

Our policy of fiscal responsibility is one of the fundamental elements of our program to build a better Kentucky. Two years ago I submitted to you a continuation budget, so we could put the state on a sound financial footing. We're now prepared to reap the benefits of that conservative fiscal policy. We can now start to move Kentucky forward.

This is a good budget. It emphasizes our children. It will make our communities safer. It invests in the future. It begins to make substantial progress on our shared vision of a better Kentucky.

And now let me get down to the specifics.

Over the past two weeks, I've already talked about 8 areas in this budget which'll improve the lives of millions of Kentuckians. Let me review some of them.

This proposal continues our commitment to elementary and secondary education with a four percent increase, which will more than cover the cost of inflation. That's more than enough money to give teachers a cost of living adjustment!!! And I call upon this body to guarantee it, because they deserve it !!!

This budget significantly increases funding for the distinguished educator program, provides 92 million dollars for new schools, and nearly 25 million more dollars for pupil transportation over the biennium. It increases our spending on pre-schools, family resource centers and professional development for teachers. It puts more money in school technology, and increases funding for the minority teacher recruitment program by 169%!!!!

In addition to the 4% increase, we're adding 15 million extra dollars to begin a safe schools program, a program we can't start quickly enough to suit me !!

Speaking of safety brings me to another subject, pay raises for firefighters and police officers, in both state and local government. One of the foundations of our efforts to maintain a safe and orderly society is to have honest, competent, well-trained police officers and firefighters. This budget provides an extraordinary pay raise for almost every qualified law enforcement officer and firefighter in Kentucky !!!

This, of course, brings up another subject, state employee raises. In 1982 you passed a law which said that all state employees will get a minimum 5% raise, and not one administration since then, has fully funded that mandate. Our first budget did and this proposal does, too! We're not going to increase government services on the backs of state workers!!!

We've dedicated our administration to the children of Kentucky and we've asked you to dedicate this session to them.

In addition to funding elementary and secondary education and school safety, we've dedicated 13 million dollars to financing our share of the new state -federal partnership to provide children's health insurance!!!

We increased the general fund contribution to the budget of the Cabinet for Families and Children by 13.7% over the biennium.

We've funded our new child protective initiative and we've increased funding for the department of juvenile justice, by

48% over the biennium!!!

That's because one of the issues I've found which seriously concerns the people of Kentucky is the dramatic rise in juvenile crime. We're meeting that threat with a dramatic increase in spending on programs to address the problem of juveniles who break our laws.

Over 4 years, new funding for juvenile treatment programs will go up $40 million, an increase of 144 percent from where it was just two years ago!!! We're going to treat our kids right but we're going to insist that they learn to live by the rules of our society!!!

We've increased funding to make our criminal justice program work better; we put in more money to help prevent domestic violence and child sexual abuse and we've funded a new office of early childhood development within my office to focus on ways to better serve our very young children.

We're going to accelerate the investment of the coal severance tax money and increase reimbursements to counties for housing juveniles and state prisoners.

We're going to increase the promotion of tourism, invest in our parks, and we've increased the Agriculture Department's budget by 40 percent. We're going to make sure that the Kentucky farmers get help marketing their products!!!

And we're going to fulfill our commitment to postsecondary education. Not only are we living up to our promise to put 100 million new dollars into our colleges and universities, we're going to do more, 18 million dollars more in fact. That extra money will be going directly to our students and their families through increased student financial aid. Our proposal fully funds our existing needs based scholarship programs for the first time in the history of the Commonwealth!!!

In the second year of the biennium, we've allocated an additional 10 million dollars for more scholarships. I strongly suggest that this money be used to begin a new financial aid program based on academic performance, sometimes called a merit based scholarship program. I'm confident that the program I've been discussing with members of the General Assembly, will greatly increase participation in postsecondary education in Kentucky and will help us keep our best and brightest students here in the Commonwealth. I'm convinced it's something we can't afford not to do. I predict to you that before this biennium is over, most of the southern states will have a substantial merit based student financial aid program. We've got a chance to stay ahead of the curve in this important initiative, we can't afford to fall behind. I predict that a program similar to the one under discussion will be, ten years from now, the most important piece of legislation enacted in the last session of the Kentucky General Assembly in the twentieth century!!!

One of our most important responsibilities is to invest in infrastructure, and none of our infrastructure is more important than roads. I'll be submitting the details of our road program to you in a couple of week's but I do want you to know that we've responded to your requests to stop diverting road fund dollars to pay for general fund obligations. This budget begins to phase out that unsound practice!!!

And we're trying to get more money from the federal government to help pay for our transportation needs. One of the ways they're reducing the federal deficit in Washington is by diverting federal highway trust fund revenue to general fund uses. We're trying to stop that practice in Washington, just as we intend to do in Frankfort. I've spent a lot of time in the nation's capital as the lead governor on transportation issues. We haven't won the battle, but I think we're making headway.

Certainly our investment in roads is vital to our future, but we have other investment needs that we must attend to. This budget proposes that we invest $860-million new dollars in basic infrastructure through the sale of bonds. That includes $425-million dollars for postsecondary education, $62.5-million dollars for new elementary and secondary schools, and $76-million for our criminal justice system.

This is a substantial commitment to new infrastructure but let me remind you that our financial condition was so unstable when I took office that I recommended only 210-million dollars of new bonds in that first biennium, the lowest new indebtedness incurred by Kentucky in over 25 years. The total new debt incurred during my four years in office will be about average for an administration over the past two decades.

I'd like to point out one unique proposal in our budget, and that's the program to jump start our efforts to establish endowed chairs and professorships at our universities through a bond issue. This 110 million dollar proposal will allow us to demonstrate to these schools that we're serious about excellence and willing to fund it in a major way!!!

I know it's an unusual approach and I expect you to question it and evaluate the soundness of the proposal, as I have. I've found it to be a good idea and I support it. I hope you do too.

I know you've all heard about our surplus expenditure program and I know you're anxious to learn more about it. I'll be releasing it before the week's over and I hope you'll agree that it's the right way to spend the extra money that comes in when the economy does better than the economists expect.

Our new fiscal policy means that every budget proposal should contain a surplus expenditure program, but they're not likely to be as large as this one, because we'll seldom have an economy as strong as ours has been these past two years.

Our recommendation for the use of this surplus is to add to our budget reserve trust fund, make a major investment in our school and state government technology programs, and fund about 135 projects for all parts of the state. These projects will be geographically balanced and bipartisan.

I worked all last week listening to every legislator who wanted to support a project. We can't fund them all but I've devoted this past weekend to deciding which ones to recommend and in which order. I'm not quite finished but as I said, I'll finish the task this week.

My main priority is to make this program fair and productive for all Kentuckians. Let me assure you that there's never been a major budget proposal that's had as much legislative input as this one.

It will total $500 million dollars. If the economy continues as strong as it is right now, all these projects will be funded. If the economy turns down, we won't be able to do all of it in this biennium but I'll commit to you, that if any part of this program is left unfunded after July 1st of 1999, those unfunded projects will be among my top priorities, if I'm ever honored to have the responsibility to submit another budget to you.

Yes, there are a lot of important initiatives and ongoing programs in this proposal but it's still not enough to allow us to catch up with the rest of the nation as quickly as I'd like, but it will allow us to gain ground.

We can gain ground, if we don't make ill-advised tax cuts.

Let me remind you one more time that we're in the process of cutting or eliminating six taxes which'll save the people of Kentucky almost 300 million dollars a year when they're fully implemented in two more years. We've cut the personal income tax, the inheritance tax, the provider tax on physicians, your automobile property tax and taxes on private pensions. And we're paying back the intangibles tax improperly collected from Kentuckians. We've absorbed these cuts with growth revenue and frugal management of state government. The first legislative session of the next millenium when the governor and legislature that would have to absorb new tax cuts in the budget are in office would be the proper time to address revenue reduction measures.

For this session, let us take the responsible course for our children, and invest in them!!!

I'll continue to talk to you and the people of Kentucky about this budget for the duration of the session. It's going to be an exciting 10 weeks.

Two weeks ago I called for a bipartisan effort to make it productive. I want to report to the people that we're making progress, in spite of serious and fundamental disagreements on important issues. I believe that most of the members of this General Assembly want to put personal and political differences aside. I'm trying to do that, and I'm willing to go that extra mile to make it work. We have a long way to go and it still may degenerate into the chaos some have predicted, but I pray that doesn't happen. I can only hope, for the sake of Kentucky, that this effort to work together for the common good can last.

We still have some long days ahead of us. The disagreements will be many. The frustrations and fatigue will cause flare ups that we'll all have to apologize for, but our work must go on, too much is at stake. The future of Kentucky is at stake. The children of Kentucky are at stake. Let us not fail them!!!

Good night and God bless you!!!

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Announcements

The following meetings were announced:

Health and Welfare, 9:00 a.m., January 22, 1998.

Banking and Insurance, 9:00 a.m., January 22, 1998.

Elections and Constitutional Amendments, 10:00 a.m., January 21, 1998.

Licensing and Occupations, 12 Noon, Room 125, January 21, 1998.

Energy, 10:00 a.m., January 21, 1998.

Minority Caucus, 12:30 p.m., Room 113, January 21, 1998.

The following meeting was canceled:

Budget Review Subcommittee on Transportation, 1:00 p.m., Room 316, January 21, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 21, 1998.

On the roll call the vote was **Yeas 73**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bruce, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, J. Clarke, Collins, Colter, Cox, Crenshaw, Crimm, Damron, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miniard, Moberly, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Scott, Siler, Simpson, Sims, Stein, Stine, Stumbo, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Yonts. **Nays 7**-- Allen, Crall, Hoover, Maricle, Nunn, Stewart, Walton.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 21, 1998

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Conway, Waddy Christian Church, Waddy.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of January 20, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 334, by Representative Simpson: AN ACT relating to crimes and punishments.

HB 335, by Representative Lovell: AN ACT relating to hazardous duty retirement.

HB 336, by Representative Lovell: AN ACT relating to probation and parole officers.

HB 337, by Representative Stein: AN ACT relating to the statewide public advocacy system.

HB 338, by Representative Gooch: AN ACT relating to insurance.

HB 339, by Representative Burch: AN ACT relating to the pari-mutuel tax.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 317**

Appropriations and Revenue: **HB 319, HB 320, HB 321, HB 328**

Banking and Insurance: **HJR 50**

Cities: **HB 323**

Education: **HB 330**

Health and Welfare: **HB 333**

Judiciary: **HB 318, HB 322, HB 324, HB 325, HB 327, HB 331**

Licensing and Occupations: **HB 329**

Natural Resources and Environment: **HB 326**

State Government: **HB 332**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 51**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 315**

Health and Welfare: **HB 130, HB 159, HB 213, HB 299, HB 188, HB 187, HB 249, HB 254, HB 255, HB 302**

Report of Committees

The Committee on Counties and Special Districts reported **HB 68, HB 201,** and **HB 202** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 68, AN ACT relating to volunteer fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Human Resources, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department ***that***[~~which~~] has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot ***seven***[~~five~~] thousand ***five hundred*** dollars ***($7,500)***[~~($5,000)~~] annually to each qualifying department. Any qualifying department ***that***[~~which~~] fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and[~~ such~~] other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to ***purchase*** workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then ***the***[~~such~~] moneys shall be carried forward to the second fiscal year of the biennium[~~,~~] and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county ***in***[~~of~~] which ***the***[~~such~~] department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount ***that***[~~which~~] it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

- (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
- (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
- (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
- (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
- (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
- (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and
- (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys ***that***[~~which~~] have been withheld during any fiscal year ***and that***[~~which~~] remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments ***that***[~~which~~] achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and ***that***[~~which~~] do not have other sources of funds at rates ***that***[~~which~~] are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

HB 201, AN ACT relating to joint sewer agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 76 IS CREATED TO READ AS FOLLOWS:

(1) A city of the third to sixth class together with the county in which it is located or together with the sanitation district, or any city of the second class together with the county in which it is located or together with the sanitation district, as an alternative to establishing a metropolitan sewer district under KRS 76.010, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county or within the city and the sanitation district.

(2) In order to establish a joint sewer agency under this section, the legislative body of the city, the fiscal court of the county, or the governing body of the sanitation district may vote to merge any existing agency or sanitation district or any portion thereof into the jointly established sewer agency or into an existing city or county sewer agency. If the legislative body of the city, fiscal court of the county, or governing body of the sanitation district determines to merge an existing agency or sanitation district into the joint sewer agency, it shall determine a method to satisfy any legal obligations of the existing agency or sanitation district which might be affected.

(3) A joint sewer agency shall be established upon the enactment of identical agreements establishing and setting out the powers of the sewer agency by all parties establishing the joint sewer agency. Any agreement enacted by a city or county shall be by ordinance. Any agreement enacted by a sanitation district shall be done in the same manner as any other official actions taken by the sanitation district.

(4) All the powers granted a metropolitan sewer district and cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the joint sewer agency except that such powers may be restricted or qualified in order to conform to the local needs of the county, city, and sanitation district.

(5) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator, joint board, or one of the merging entities, as set out in the ordinance creating the joint sewer agency.

(6) The joint sewer agency may be dissolved only by adoption of an ordinance of the legislative body of the city and the fiscal court of the county. The ordinance creating the joint sewer agency shall be amended in the same manner as originally enacted.

(7) The legislative body of any city of the third to sixth class may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this section.

Section 2. KRS 76.233 is amended to read as follows:

Any city of the second ***to sixth*** class and the county in which it is located which have established a joint sewer agency pursuant to KRS 76.231 may authorize the issuance of revenue bonds pursuant to the procedure set out in KRS 76.150 and 76.160.

HB 202, AN ACT relating to sanitation districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 220 IS CREATED TO READ AS FOLLOWS:

(1) Following a public hearing as provided in subsection (2) of this section, the fiscal court may alter the boundaries of a sanitation district by reducing its area or may dissolve a sanitation district if that sanitation district has for a period of two (2) consecutive years failed to provide the services for which it was established, or if all or a portion of its services can be or have been provided by some other entity. If the sanitation district is located in more than one (1) county, the fiscal court of each county containing a portion of the sanitation district shall vote to dissolve the sanitation district before the dissolution may take effect.

(2) The fiscal court shall schedule a public hearing on the issue of alteration or dissolution and advertise the hearing as provided in KRS 424.130.

(3) At the hearing, the fiscal court shall consider testimony offered at the hearing and any other relevant information including, but not limited to, the following:

(a) Present and projected need for the service by the sanitation district;

(b) Population density of the sanitation district;

(c) Existence of alternate providers of services;

(d) Revenue base of the sanitation district, including but not limited to, assessed valuation, bonding capacity, and user fees; and

(e) Consequences of alteration of the sanitation district's boundaries on the effectiveness and efficiency of the sanitation district.

(4) (a) If the fiscal court determines to dissolve a sanitation district, it shall determine a method to satisfy any legal obligations of the sanitation district that might be affected. Upon satisfaction of its legal obligations, the sanitation district shall be legally dissolved. Any special ad valorem tax imposed by the sanitation district shall be removed from the tax rolls by the county clerk, and any assets of the sanitation district shall be assumed by the county or otherwise transferred by contract to another entity for the purpose of providing service within the area of the sanitation district before dissolution.

(b) If the fiscal court determines to alter the boundaries of the sanitation district, it shall draw the new boundaries of the sanitation district and determine the proportional amount of existing legal obligations of the area that is to be excluded from the sanitation district. Upon satisfaction of the obligations, the new

boundaries of the sanitation district shall be legally effective and the affected taxpayers shall be removed from the tax rolls of the sanitation district.

(5) The dissolution procedure described in this section shall provide a means of dissolution of a sanitation district in addition to the dissolution procedure contained in KRS 65.166.

Section 2. KRS 220.110 is amended to read as follows:

(1) If no suit is filed against the commissioner under KRS 220.100, or if suit is filed and final judgment in the Circuit Court or an appeal is in favor of the commissioner, the commissioner shall forthwith declare the district organized into a sanitation district and give it a corporate name, as provided in KRS 220.050, by which in all proceedings it shall thereafter be known. The commissioner shall certify his act to the county clerk of each county in which any part of the district is located, and to the Secretary of State, each of whom shall record the certificate as articles of incorporation. The commissioner shall also certify his act to the county judge/executive of each county in which any part of the district is located. The district shall then be a political subdivision~~[and shall have perpetual existence]~~, except as otherwise specifically provided in KRS 220.530, with power to sue and be sued, contract and be contracted with, incur liabilities and obligations, exercise the right of eminent domain, assess, tax, and contract for rentals as herein provided, issue bonds, and do and perform all acts herein expressly authorized and all acts necessary and proper for the carrying out of the purpose for which the district was created, and for executing the powers with which it is invested.

(2) The board of directors of the district may amend the corporate name of the district, but the amendment shall not be effective until certified by the board to the commissioner, the county clerk and county judge/executive of each county in which any part of the district is located, and to the Secretary of State.

The Committee on Education reported **HB 97**, with Committee Substitute and Committee Title Amendment No. 1 attached thereto, **HB 151**, and **HB 190**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 97, AN ACT relating to school employees' salaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.291 is amended to read as follows:

(1) All school employees working on a continuing, regular basis, shall be paid regularly, on dates determined by the employing board of education, during the school year or during the fiscal year~~[for twelve (12) month employees]~~, the provisions of KRS 337.020 notwithstanding.~~[The gross salary received on each pay date will be an amount equal to the school employee's annual salary divided by the number of pay dates.]~~

(2) Salary amounts shall be paid on the prescribed pay dates without deduction for days on which schools were closed; provided, however, any time not worked for which pay is received must be made up prior to the end of that current school year, or pay so received shall be withheld from the final salary payment of that school year.

(3) ~~[Gross]~~Salary payments~~[under subsection (1) of this section]~~ need not, but may, include pay for extra duties or services. Payment for extra duties or services must be paid pursuant to a payment plan adopted by the board of education prior to the beginning of the school year. The board of education may also adopt a plan for providing a program of fringe benefits to its employees.

(4) All payments made for salaries, extra duties, and fringe benefits by the board of education under the authority of this section are deemed to be for services rendered and for the benefit of the common schools; the payments do not affect the eligibility of any school system to participate in the public school fund as established in KRS Chapter 157. Nor shall any individual board member or administrator be held liable where additional payments for such service become necessary. Provided, however, that nothing in this section authorizes or requires the payment of salaries to personnel when schools are closed as a result of a strike or other work stoppage or when schools are open and personnel fail to render services. No part of this section shall be law if any part is declared unconstitutional.

(5) Subsection (2) of this section does not apply to those employed on a twelve (12) month basis.

The Committee Substitute to **HB 97** is as follows:

AN ACT relating to school employees' salaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.291 is amended to read as follows:

(1) All school employees working on a continuing, regular basis, shall be paid regularly, on dates determined by the employing board of education, during the school year or during the fiscal year for twelve (12) month employees, the provisions of KRS 337.020 notwithstanding. The gross salary received on each pay date will be an amount equal to the school employee's annual salary divided by the number of pay dates***, except a local board of education shall pay an***

employee any remaining salary owed prior to the end of the fiscal year upon completion of the employee's responsibilities or duties if so notified by the employee.

(2) Salary amounts shall be paid on the prescribed pay dates without deduction for days on which schools were closed; provided, however, any time not worked for which pay is received must be made up prior to the end of that current school year, or pay so received shall be withheld from the final salary payment of that school year.

(3) Gross Salary payments under subsection (1) of this section need not, but may, include pay for extra duties or services. Payment for extra duties or services must be paid pursuant to a payment plan adopted by the board of education prior to the beginning of the school year. The board of education may also adopt a plan for providing a program of fringe benefits to its employees.

(4) All payments made for salaries, extra duties, and fringe benefits by the board of education under the authority of this section are deemed to be for services rendered and for the benefit of the common schools; the payments do not affect the eligibility of any school system to participate in the public school fund as established in KRS Chapter 157. Nor shall any individual board member or administrator be held liable where additional payments for such service become necessary. Provided, however, that nothing in this section authorizes or requires the payment of salaries to personnel when schools are closed as a result of a strike or other work stoppage or when schools are open and personnel fail to render services. No part of this section shall be law if any part is declared unconstitutional.

(5) Subsection (2) of this section does not apply to those employed on a twelve (12) month basis.

Section 2. Whereas it is urgent that school district employees be allowed to receive their remaining salary owed at the end of the school year and before the end of the fiscal year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Title Amendment No. 1 to **HB 97** is as follows:

By amending the title to read, "AN ACT relating to school employees' salaries and declaring an emergency."

HB 151, AN ACT relating to local school board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.180 is amended to read as follows:

(1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(2) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the twelfth grade or has been issued a GED certificate or has received a high school diploma through participation in the external diploma program and he is elected after July 13, 1990; and

(d) An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; or

(e) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or

(f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or

(g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or

(h) Who has been removed from membership on a board of education for cause; or

(i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.

(3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section,[~~ or becomes a candidate for nomination or election to any office or agency the holding and the discharging of the duties of which would have rendered him ineligible before election,~~] or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS

415.050 and 415.060.

(4) A board member shall be eligible for reelection unless he becomes disqualified.

(5) The annual in-service training requirements for all school board members shall be as follows:

(a) Twelve (12) hours for school board members with zero to three (3) years of experience;

(b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and

(c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement.

HB 190, AN ACT relating to compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private, parochial, or church regular day school. It shall be the duty of each private, parochial, or church regular day school to notify the local board of education of those students in attendance at the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in private, parochial, or church school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state-supported program for exceptional children;

(g) For purposes of this section, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.

(2) Before granting an exemption under subsection (1)(d) of this section the Kentucky Board of Education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, ***advanced registered nurse practitioner,*** psychologist***,***[~~or~~] psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exempt the child from compulsory attendance. Any child who is excused from school attendance more than six (6) months shall have two (2) signed statements from a combination of the following professional persons: a licensed physician, ***advanced registered nurse practitioner,*** psychologist, psychiatrist, and health officer. Exemptions of all children under the provisions of subsection (1)(d) of this section shall be reviewed annually with the evidence required being updated.

(3) For any child who is excluded under the provisions of subsection (1)(d) of this section, home, hospital, institutional, or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the Kentucky Board of Education shall be provided.

The Committee on Elections and Constitutional Amendments reported **HB 197, HB 208, HB 217,** and **HB 259** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 197, AN ACT relating to campaign finance registration and disclosure requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots, and paid-for television or radio announcements which expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the individual or committee which paid for the communication; except that if paid for by a candidate, slate of candidates, or campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or campaign committee, whichever is applicable. For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored

programs and broadcasts by candidates for public office shall be considered compliance with this section.

(2) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in subsection (1) of this section, that appear in their publications, however, nothing in subsection (1) of this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

(3) (a) A person who makes a telephone call that supports or opposes a candidate or slate of candidates shall identify the person or organization sponsoring the call by stating "paid for by . . ." (insert name of person or organization sponsoring the call). The person or organization sponsoring the call shall register with the registry under subsection (8) of Section 2 of this Act and shall file a copy of the script of the telephone call with the registry before a call may be made. This paragraph shall not apply to a telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.

(b) As used in paragraph (a) of this subsection, "person" includes:

1. A candidate or slate of candidates;

2. An officer of a campaign committee, permanent committee, or political party executive committee;

3. An officer, partner, attorney, or other representative of a corporation, partnership, or other business entity; and

4. An agent or other person acting on behalf of a candidate, slate of candidates, campaign committee, permanent committee, political party executive committee, or corporation, partnership, or other business entity.

(c) A telephone call conducted for the purpose of polling respondents concerning a candidate or slate of candidates that is part of a series of like telephone calls that consist of fewer than six hundred (600) completed calls and average more than two (2) minutes in duration is presumed to be a political poll and not subject to paragraph (a) of this subsection.

(d) No telephone call shall state or imply that the caller represents any person or organization unless the person or organization has filed with the registry specific written approval for the caller to act as a representative.

(e) No telephone call shall state or imply that the caller represents a nonexistent person or organization.

(4) A telephone call, not conducted by independent expenditure, supporting or opposing a candidate or slate of candidates requires prior written authorization by the candidate or slate of candidates that the call supports. A candidate or slate of candidates shall file a copy of the written authorization for the call with the registry before a call may be made.

Section 2. KRS 121.170 is amended to read as follows:

(1) Any committee, except a federally-registered out-of-state permanent committee, organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, addresses, and positions of the officers of the organization and designating the candidate or candidates, slate of candidates, or question it is organized to support or oppose on forms prescribed by the registry; except that no campaign committee for a slate of candidates for Governor and Lieutenant Governor shall be registered prior to the filing of a joint notification and declaration by the slate of candidates pursuant to KRS 118.125 and 118.127. No entity which is excluded from the definition of "campaign committee" established in KRS 121.015(3)(a) shall be required to register as a committee with the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for statewide-elected state office or an office in a jurisdiction containing in excess of two hundred thousand (200,000) residents shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) and KRS 121A.020(5).

(3) All provisions of KRS 121.160 and 121A.070 governing the duties and responsibilities of a candidate, slate of candidates, or campaign treasurer shall apply to a registered committee, except a federally-registered out-of-state permanent committee, and a person acting as a campaign fundraiser.

(4) The chairman of a committee and the campaign treasurer shall be separate persons.

(5) Any federally-registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(6) Notwithstanding any provision of law to the contrary, a contribution made by a federally-registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. sec. 441b, 11 C.F.R. sec. 104.10, 11 C.F.R. sec. 106.6, and 11 C.F.R. sec. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

(7) The organization, formation, or registration of a permanent committee by any member of the General Assembly shall be prohibited.

(8) (a) A person or organization that conducts business in this state that consists of making paid telephone calls supporting or opposing a candidate or slate of candidates for office in this state shall, prior to conducting such business, register with the registry by filing the name, address, telephone number, and position of the person or each officer of the organization and the name of the candidate or slate of candidates it supports or opposes, and designate an agent for service of process, notice, or demand required or authorized by law on forms prescribed by the registry. The registered agent shall be an individual who is a resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. A person or organization already registered to do business in this state shall not be required to designate an additional registered agent to comply with the provisions of this subsection but shall register with the registry prior to making paid telephone calls supporting or opposing a candidate or slate of candidates.

(b) As used in paragraph (a) of this subsection, "conducting business in this state" includes both placing telephone calls from a location inside this state and placing telephone calls from a location outside this state to individuals located in this state.

(c) A person or organization conducting business in this state under paragraph (a) of this subsection shall immediately notify the registry of any changes in the information required by paragraph (a) of this subsection.

HB 208, AN ACT relating to voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or within a distance of five hundred (500) feet of a county clerk's office or any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than five hundred (500) feet from the polling place. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling ***or the wearing of a campaign button or other campaign paraphernalia or an article of clothing that indicates support for or opposition to a candidate, political party, or referendum issue by a voter who is not a precinct election officer or other election official***. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election

laws and maintain law and order at the polls and within five hundred (500) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

HB 217, AN ACT relating to the costs of elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of ***seven hundred dollars ($700)***[~~two hundred fifty-five dollars ($255)~~] for each precinct in the county. However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

HB 259, AN ACT relating to campaign finance violations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. In conducting any investigation, the registry shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.

(2) If the registry concludes that there is probable cause to believe that the law has been violated, the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(3) To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(4) If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, the

registry shall[~~, within five (5) days,~~] submit a written request to the Chief Justice of the Kentucky Supreme Court to recommend not fewer than ***five (5)***[~~ten (10)~~] nor more than ***ten (10)***[~~fifteen (15)~~] retired or former justices or retired or former judges of the Court of Justice who are qualified and willing to[~~ serve on a panel which shall~~] conduct a hearing to determine if a violation has occurred. Upon receipt of the recommendations of the Chief Justice, the registry shall randomly select ***one (1)***[~~three (3)~~] retired or former ***justice***[~~Justices~~] or ***judge***[~~Judges~~] from the list to conduct the hearing, which shall be held in accordance with the Kentucky Rules of Civil Procedure, or, if the Chief Justice declines to make recommendations, the registry, on its own initiative, shall request retired or former justices or judges to serve[~~ on the panel~~]. The time and location of hearings shall be determined by the registry. Retired or former justices or judges selected to serve[~~ on a three (3) judge panel~~] shall receive reimbursement from the registry for their reasonable and necessary expenses incurred as a result of the performance of their duties ***at the hourly rate set for attorneys by the Finance and Administration Cabinet***. The registry shall notify the complainant and the alleged violator that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. At the hearing, which shall be open to the public pursuant to KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator, and the alleged violator shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. ***If the justice or judge determines that the preponderance of the evidence shows a violation has occurred, the justice or judge shall***[~~The panel shall conclude its proceedings and~~] render a decision not more than sixty (60) days after the ***case is submitted for determination. The decision shall become the final decision of the registry unless the registry board at its next regular meeting acts to set aside or modify the justice's or judge's decision, in which case the registry board's decision shall become the final registry decision. A party adversely affected by the registry's order may appeal to Franklin Circuit Court within thirty (30) days after the date of the registry's order. The***[~~date on which the panel was appointed to conduct a hearing. If the panel determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order, which shall be appealable to the Court of Appeals within thirty (30) days after the date of the order, to the~~] violator ***may be ordered*** to comply with any one (1) or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter. An appeal of an order[~~ of the panel~~] shall be advanced on the docket to permit a timely decision.

(5) If the registry concludes that there is probable cause to believe that the campaign finance law has been violated knowingly, it shall refer the violation to the Attorney General or the appropriate Commonwealth's or county attorney for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon a motion timely filed, for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.

(6) Any person directly involved or affected by an action of the registry[~~ or the panel~~] which is final, other than of a determination to refer a violation to the Attorney General or appropriate Commonwealth's or county attorney for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action.

(7) If judicial review is sought of any action of the registry[~~ or the panel~~] relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

The Committee on Tourism reported **HB 1**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 1, AN ACT relating to water safety and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

  (a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters; and

  (b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) ***"Personal watercraft" means a vessel which uses an internal combustion engine to power a jet pump for its primary source of propulsion and is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than to be operated by a person sitting or standing inside the vessel.***

(5) "Waters of this state" means any waters within the territorial limits of this state;

(6)[~~(5)~~] "Person" means an individual, partnership, firm, corporation, association, or other entity;

(7)[~~(6)~~] "Operate" means to navigate or otherwise use a motorboat or a vessel;

(8)[~~(7)~~] "Cabinet" means the Tourism Cabinet;

(9)[~~(8)~~] "Department" means the Department of Fish and Wildlife Resources;

(10)[~~(9)~~] "License" and "certificate of number" as used herein are synonymous;

(11)[~~(10)~~] "Clerk" means county clerk;

(12)[~~(11)~~] "Division of Water Patrol" means the Division of Water Patrol, Department of Fish and Wildlife Resources within the Tourism Cabinet;

(13)[~~(12)~~] "Title" means the certificate of title; and

(14)[~~(13)~~] "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) A personal watercraft may be used to tow individuals engaged in water-skiing or similar activities if it has adequate seating capacity and an observer on board to monitor the progress of the person being towed, or if it is equipped with a rearview mirror with a minimum field of vision of one hundred sixty degrees (160°) mounted so that the operator can observe the activities of the person being towed.

(2) A person shall not operate a personal watercraft on public waters unless every individual operating or riding on the personal watercraft is wearing a personal flotation device that is approved by the United States Coast Guard under 46 C.F.R. sec. 160.

(3) A personal watercraft that does not have self-circling capability shall not be operated on public waters unless:

  (a) The personal watercraft is equipped with a lanyard-type engine cutoff switch; and

  (b) The lanyard is attached to the person, clothing, or personal flotation device of the operator.

(4) A personal watercraft or motorboat operated on public waters shall at all times be operated according to the "Rules of the Road" and in a reasonable and prudent manner so as not to endanger human life, human physical safety, or property. A person shall not do any of the following while operating a personal watercraft or motorboat on public waters:

  (a) Weave through congested watercraft traffic in a way that endangers human life, human physical safety, or property;

  (b) Follow a watercraft that is towing an individual on water skis, a surfboard, or a water sport device in a way that endangers human life, human physical safety, or property;

  (c) Jump the wake of another watercraft in a way that endangers human life, human physical safety, or property;

  (d) Cut between a boat and the individual or individuals being towed by the boat;

  (e) Cross paths with another watercraft when visibility around the other watercraft is so obstructed as to endanger human life, human physical safety, or property; or

  (f) Steer a personal watercraft or motorboat toward an object or individual in the water and turn sharply at close

range in a way that endangers human life, human physical safety, or property.

(5) A person shall not operate a personal watercraft on public waters at any time between sunset and the following sunrise.

(6) A person shall not operate a motorboat or personal watercraft within fifty (50) feet of a commercial motor vessel and its tow which is in operation on a waterway, except if the operator of the commercial motor vessel has given his or her consent.

(7) (a) A person under twelve (12) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth.

(b) Effective January 1, 1999, a person twelve (12) years of age through seventeen (17) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth unless the person is in possession of a safe boating certificate or is accompanied, on board, by a person eighteen (18) years of age or older or in possession of a safe boating certificate.

(c) While operating a motorboat or a personal watercraft over ten (10) horsepower on the public waters of the Commonwealth, nonresidents twelve (12) years of age through seventeen (17) years of age shall have in their possession a recognized and equivalent boat operator licensing or safe boating certificate from another state or country.

(8) Subsections (1) to (6) of this section shall not apply to:

(a) A performer engaged in a professional exhibition; or

(b) A person participating in a regatta, a race, a marine parade, a tournament, or an exhibit that is held in compliance with administrative regulations adopted by the department.

(9) A person who owns a motorboat or personal watercraft, or has charge over, or control of, a motorboat or personal watercraft, shall not authorize or knowingly permit the motorboat or personal watercraft to be operated in violation of this section.

Section 3. KRS 235.240 is amended to read as follows:

(1) ***A***[~~No~~] person shall ***not*** operate any motorboat or vessel, or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) ***A***[~~No~~] person shall ***not*** operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any ***drugs***[~~narcotic drug, barbiturate or marijuana~~].

(3) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010(1) to (3), except that the penalties for this offense are set forth in Section 4 of this Act.

Section 4. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter ***or administrative regulations adopted under this chapter*** shall be fined not less than ***fifty***[~~fifteen~~] dollars ***($50)***[~~($15)~~] nor more than ***two***[~~one~~] hundred dollars ***($200)***[~~($100)~~].

(2) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than ***fifty***[~~fifteen~~] dollars ***($50)***[~~($15)~~] nor more than ***two***[~~one~~] hundred dollars ***($200)***[~~($100)~~].

(3) Any person who violates Section 3 of this Act shall be guilty of a separate offense and subject to a fine of one hundred dollars ($100) to two hundred fifty dollars ($250) for the first offense, a fine of two hundred fifty dollars ($250) to five hundred dollars ($500) for the second offense, and a fine of five hundred dollars ($500) to one thousand dollars ($1,000), or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense.

Section 5. Whereas it is imperative that the carnage caused by personal watercraft on the waters of the Commonwealth be curbed as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 1** is as follows:

AN ACT relating to water safety and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

(a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters; and

(b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) ***"Personal watercraft" means a vessel which uses an internal combustion engine to power a jet pump for its primary source of propulsion and is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than to be operated by a person sitting or standing inside the vessel.***

(5) "Safe boating certificate" means a document attesting the successful completion of instruction, approved by the department or given by the United States Coast Guard or Coast Guard Auxiliary or the U.S. Power Squadron, to prepare an individual to safely operate a motorboat or personal watercraft on the waters of the Commonwealth.

(6) "Waters of this state" means any waters within the territorial limits of this state;

(7)[~~(5)~~] "Person" means an individual, partnership, firm, corporation, association, or other entity;

(8)[~~(6)~~] "Operate" means to navigate or otherwise use a motorboat or a vessel;

(9)[~~(7)~~] "Cabinet" means the Tourism Cabinet;

(10)[~~(8)~~] "Department" means the Department of Fish and Wildlife Resources;

(11)[~~(9)~~] "License" and "certificate of number" as used herein are synonymous;

(12)[~~(10)~~] "Clerk" means county clerk;

(13)[~~(11)~~] "Division of Water Patrol" means the Division of Water Patrol, Department of Fish and Wildlife Resources within the Tourism Cabinet;

(14)[~~(12)~~] "Title" means the certificate of title; and

(15)[~~(13)~~] "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) A personal watercraft may be used to tow individuals engaged in water-skiing or similar activities if it has adequate seating capacity and an observer on board to monitor the progress of the person being towed, or if it is equipped with a rearview mirror with a minimum field of vision of one hundred sixty degrees (160°) mounted so that the operator can observe the activities of the person being towed.

(2) A person shall not operate a personal watercraft on public waters unless every individual operating or riding on the personal watercraft is wearing a personal flotation device that is approved by the United States Coast Guard under 46 C.F.R. sec. 160.

(3) A personal watercraft that does not have self-circling capability shall not be operated on public waters unless:

(a) The personal watercraft is equipped with a lanyard-type engine cutoff switch; and

(b) The lanyard is attached to the person, clothing, or personal flotation device of the operator.

(4) A personal watercraft or motorboat operated on public waters shall at all times be operated according to the "Rules of the Road" and in a reasonable and prudent manner so as not to endanger human life, human physical safety, or property. A person shall not do any of the following while operating a personal watercraft or motorboat on public waters:

(a) Weave through congested watercraft traffic in a way that endangers human life, human physical safety, or property;

(b) Follow a watercraft that is towing an individual on water skis, a surfboard, or a water sport device in a way that endangers human life, human physical safety, or property;

(c) Jump the wake of another watercraft in a way that endangers human life, human physical safety, or property;

(d) Cut between a boat and the individual or individuals being towed by the boat;

(e) Cross paths with another watercraft when visibility around the other watercraft is so obstructed as to endanger human life, human physical safety, or property; or

(f) Steer a personal watercraft or motorboat toward an object or individual in the water and turn sharply at close range in a way that endangers human life, human physical safety, or property.

(5) A person shall not operate a personal watercraft on public waters at any time between sunset and the following sunrise.

(6) A person shall not operate a motorboat or personal watercraft within fifty (50) feet of a commercial motor vessel and its tow which is in operation on a waterway, except if the operator of the commercial motor vessel has given his or her consent.

(7) (a) A person under twelve (12) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth.

(b) Effective January 1, 1999, a person twelve (12) years of age through seventeen (17) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth unless the person is in possession of a safe boating certificate or is accompanied, on board, by a person eighteen (18) years of age or older or in possession of a safe boating certificate.

(c) While operating a motorboat or a personal watercraft over ten (10) horsepower on the public waters of the Commonwealth, nonresidents twelve (12) years of age through seventeen (17) years of age shall have in their possession a Kentucky safe boating certificate or a recognized and equivalent boat operator licensing or safe boating certificate from another state or country.

(8) Subsections (1) to (6) of this section shall not apply to:

(a) A performer engaged in a professional exhibition; or

(b) A person participating in a regatta, a race, a marine parade, a tournament, or an exhibit that is held in compliance with administrative regulations adopted by the department.

(9) A person who owns a motorboat or personal watercraft, or has charge over, or control of, a motorboat or personal watercraft, shall not authorize or knowingly permit the motorboat or personal watercraft to be operated in violation of this section.

Section 3. KRS 235.240 is amended to read as follows:

(1) ***A***[~~No~~] person shall ***not*** operate any motorboat or vessel, or manipulate any water skis, surfboard or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) ***A***[~~No~~] person shall ***not*** operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any ***other substance which impairs one's driving ability***[~~narcotic drug, barbiturate or marijuana~~].

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010(1) to (3), except that the penalties for this offense are set forth in Section 4 of this Act.

Section 4. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter ***or administrative regulations adopted under this chapter*** shall be fined not less than ***fifty***[~~fifteen~~] dollars ***($50)***[~~($15)~~] nor more than ***two***[~~one~~] hundred dollars ***($200)***[~~($100)~~].

(2) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than ***fifty***[~~fifteen~~] dollars ***($50)***[~~($15)~~] nor more than ***two***[~~one~~] hundred dollars ***($200)***[~~($100)~~].

(3) Any person who violates Section 3 of this Act shall not be subject to the penalties of KRS Chapter 189A, but shall be guilty of a separate offense and subject to a fine of one hundred dollars ($100) to two hundred fifty dollars ($250) for the first offense, a fine of two hundred fifty dollars ($250) to five hundred dollars ($500) for the second offense, and a fine of five hundred dollars ($500) to one thousand dollars ($1,000), or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense. Refusal to submit to a breath alcohol analysis or similar test in violation of subsection (3) of Section 3 of this Act shall be deemed an offense.

(4) A person may, in addition or in lieu of the penalties specified in subsection (1) or (2) of this section, and in addition to the penalties of subsection (3) of this section, be required to take a safe boating course approved by the department or offered by the United States Coast Guard, Coast Guard Auxiliary, or U.S. Power Squadron, and to present the court a certificate documenting successful completion of the course.

Section 5. Whereas it is imperative that the carnage caused by personal watercraft on the waters of the Commonwealth be curbed as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Licensing and Occupations reported **HB 256**, with Committee Substitutes attached thereto, and **HCR 40** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the

Calendar.

HB 256, AN ACT relating to charitable food kitchens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) The term "secretary" means the secretary of the Cabinet for Human Resources;

(2) The term "cabinet" means the Cabinet for Human Resources or its designee;

(3) The term "person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;

(4) The term "food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(5) The term "drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) The term "device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) The term "cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) The term "official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(10) The term "immediate container" shall not include package liners;

(11) The term "labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(15) The term "new drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(16) The term "contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) The term "federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq., or amendments thereto);

(19) The term "flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) The terms "bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;

(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(25) The term "Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);

(26) The term "Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;

(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;

(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or

more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

- (a) A pesticide chemical in or on a raw agricultural commodity; or
- (b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
- (c) A color additive; or
- (d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act, the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) The term "color additive" means a material which:

- 1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or
- 2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;

(b) The term "color" shall include, but not be limited to black, white, and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) The term "Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(33) The term "retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(34) The term "food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; ***charitable food kitchens;*** or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(35) The term "temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(36) The term "retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) The term "salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(38) The term "salvage processing plant" means an establishment operated by a person engaged in the business of

reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) The term "food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and

(40) The term "food storage warehouse" means any establishment in which food is stored for subsequent distribution.

Section 2. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Human Resources.

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection (6) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(6) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade***, charitable food kitchens,*** and all facilities operated by the Cabinet for Human Resources or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code.

(7) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (6) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(8) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 3. This Act is retroactive to January 1, 1998.

Section 4. Whereas payment of required fees places undue hardship upon the operation of charitable food kitchens, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 256** is as follows:

AN ACT relating to charitable food kitchens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) The term "secretary" means the secretary of the Cabinet for Human Resources;

(2) The term "cabinet" means the Cabinet for Human Resources or its designee;

(3) The term "person" means an individual, or a firm, partnership, company, corporation, trustee, association, or any public or private entity;

(4) The term "food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(5) The term "drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(6) The term "device", except when used in subsection (12) of this section and in subsection (10) of KRS 217.175, subsection (6) of KRS 217.035, subsection (3) of KRS 217.065, and subsection (3) of KRS 217.095, means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(7) The term "cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of any such articles, except that such term shall not include soap;

(8) The term "official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(9) The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(10) The term "immediate container" shall not include package liners;

(11) The term "labeling" means all labels and other written, printed or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(12) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(13) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(14) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(15) The term "new drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(16) The term "contaminated with filth" shall apply to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

(17) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment;

(18) The term "federal act" means the federal Food, Drug and Cosmetic Act (21 U.S.C. Sec. 301 et seq.; 52 Stat. 1040 et seq., or amendments thereto);

(19) The term "flour" shall include and be limited to the foods, commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(20) The term "enriched" as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of "enriched" flour as defined under the federal act;

(21) The terms "bread" and "enriched bread" shall include, and be limited to, the foods commonly known and described as "white bread," "white rolls," "white buns," "enriched white bread," "enriched rolls," and "enriched white buns," as defined under the federal act;

(22) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition shall not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(23) The term "practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices; it shall also include optometrists when administering or prescribing pharmaceutical agents authorized in subsections (13), (14), and (15) of KRS 320.240, and advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042;

(24) The term "prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(25) The term "Meat Inspection Act" means the federal Meat Inspection Act (21 U.S.C. Sec. 71 et seq.; 34 Stat. 1260 et seq., including any amendments thereto);

(26) The term "Poultry Products Inspection Act" means the federal Poultry and Poultry Products Inspection Act; 21 U.S.C. Sec. 451 et seq.; Public Law 85-172; 71 Stat. 441, including any amendments thereto;

(27) The term "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. Sec. 1451 et seq., and all amendments thereto;

(28) The term "pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of the federal Insecticide, Fungicide and Rodenticide Act and subsequent amendments thereto, and which is used in the production, storage, or transportation of raw agricultural commodities;

(29) The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(30) The term "food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity; or

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Meat Inspection Act of 1907 and subsequent amendments thereto;

(31) (a) The term "color additive" means a material which:

1. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source; or

2. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that the term shall not include any material which has been or hereafter is exempted under the federal act;

(b) The term "color" shall include, but not be limited to black, white, and intermediate grays;

(c) Nothing in paragraph (a)1. of this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(32) The term "Environmental Pesticide Control Act of 1972" means the federal Environmental Pesticide Control Act of 1972, Public Law 92-516, and all amendments thereto;

(33) The term "retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(34) The term "food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; ***charitable food kitchens;*** or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(35) The term "temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(36) The term "retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(37) The term "salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(38) The term "salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a

similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(39) The term "food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but shall not include retail food establishments; and

(40) The term "food storage warehouse" means any establishment in which food is stored for subsequent distribution.

Section 2. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Human Resources.

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection (6) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(6) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade, ***charitable food kitchens,*** and all facilities operated by the Cabinet for Human Resources or Department of Corrections shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code. ***For this subsection, the term "charitable food kitchens" means a not-for-profit, benevolent food service establishment where more than one-half (1/2) of the employees are volunteers.***

(7) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (6) of this section, and if the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(8) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 3. This Act is retroactive to January 1, 1998.

Section 4. Whereas payment of required fees places undue hardship upon the operation of charitable food kitchens, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HCR 40, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Licensing and Occupations to conduct a study of dentistry in Kentucky.

WHEREAS, the practice of dentistry is an important occupation, dedicated to the continuing health and welfare of the citizens of the Commonwealth of Kentucky; and

WHEREAS, the Kentucky Board of Dentistry regulates several important professions within the practice of dentistry, including dentists, dental hygienists, dental laboratories, and dental laboratory technicians; and

WHEREAS, the Kentucky Board of Dentistry regulates several important specialties of dentistry, including oral surgery, orthodontia, pedodontia, periodontia, prosthodontia, oral pathology, and public health; and

WHEREAS, the practice of denturity has long been an active occupation in many states throughout the United States, but heretofore not recognized by the Kentucky Board of Dentistry in the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Licensing and Occupations is directed to conduct a study of dentistry and issues related to denturity and the need for regulation of denturists by the Kentucky Board of Dentistry.

Section 2. A final report shall be submitted by the Interim Joint Committee on Licensing and Occupations not later than November 1, 1999, which shall include recommendations to the 2000 General Assembly.

Section 3. Staff services to be utilized in completing this study are estimated to cost $15,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Calendar

HB 240, HB 142, HB 51, HB 109, HB 110, and **HB 135** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Stumbo moved that the rules be suspended to allow the introduction of guests. Agreed.

Representative Murgatroyd moved that the rules be suspended to grant floor privileges to former Representative Ken Harper. Agreed. Representative Maricle moved that the rules be suspended to grant floor privileges to former Representative John Harper. Agreed. Representative Bowling moved that the rules be suspended to grant floor privileges to former Representative John Roland. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 39, HB 109, HB 110, HB 135, HB 240,** and **HB 142** have been posted for passage in the Orders of the Day for January 22, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 51**

Representative Stacy moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Stacy moved the adoption of the following **Legislative Citation No. 31**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory and honor of Steve Hamilton for his countless examples of courage, heroism and sportsmanship. He was one of Morehead State University's most successful athletics alumni and coaches, serving as the University's Director of Intercollegiate Athletics and leaving a prominent legacy as MSU's all-time winningest coach with 305 career victories during his 14-season career as the Eagles' baseball coach, including five divisional championships and two OVC championships, as well as his own illustrious contributions as a record-setting MSU athlete in baseball, basketball and track. His accomplishments which extended beyond the boundaries of the University and the Commonwealth include his 11-year career as a major league baseball pitcher for the Cleveland Indians, Washington Senators, New York Yankees, Chicago White Sox, San Francisco Giants, and the Chicago Cubs. This talented, versatile athlete pitched in two World Series as a New York Yankee and played in an NBA Championship Series for the Minneapolis Lakers. His untimely death on December 2, 1997, after a courageous ten-month battle with cancer, leaves an unfillable void in the hearts of his family, friends, and colleagues, as well as in the hallways and fields of Morehead State University. The members of the House of Representatives join with Representative John Will Stacy in extending sincerest expressions of sympathy to his loving wife, Shirley Potter Hamilton; his beloved children, Stephanie Fightmaster, Elizabeth Monnett, Robert Hamilton and Daniel Hamilton; his cherished grandchildren, his adoring mother, Ruby Hamilton; and his devoted brother, Tom Hamilton. **Legislative Citation No. 31** was adopted without objection.

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute to **HB 52**, by Representative Nunn:

On page 2, line 17, after the words "***on or after***" by deleting the words " ***the effective***" by inserting in lieu thereof the words "***January 1, 1998***"; and

On page 2, at the beginning of line 18 by deleting the words "***date of this Act***"; and

On page 2, on line 22, after the words "***prior to***" by deleting the words "***the effective date of this Act***" and inserting in lieu thereof the words "***January 1, 1998***".

Floor Amendment No. 2 to the Committee Substitute to **HB 52**, by Representative Nunn:

On page 3, line 6 after the words "***appointed or elected***" by adding the following: "***before, on, or***"; and

On page 3, line 7 after the words "***officers employed***" by adding the following: "***before,***"; and

On page 3, line 7 after the word "***on***" by adding "***,***".

Floor Amendment No. 1 to the Committee Substitute to **HB 52**, by Representative Vincent:

On page 1, line 7, after the words "***full-time deputy sheriff***" by inserting the following: "***, including those providing court security,***".

Floor Amendment No. 2 Title to **HB 135**, by Representative Damron:

By amending the title to read as follows: "AN ACT relating to court facilities and declaring an emergency.".

Floor Amendment No. 1 to **HB 135**, by Representative Damron:

On page 2, after line 21, by adding the following:

"Section 2. Whereas local governments planning to refinance court facilities need to act quickly in response to current favorable costs of financing, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.".

Orders of the Day

HJR 33 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maricle moved that **HJR 33** be adopted.

On the roll call the vote was: Yeas 96, Nays 0 (See January 21, 1998 roll call on **HJR 33** - Appendix.) **HJR 33** was adopted. Representative Maricle moved that the vote by which **HJR 33** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 38 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 38** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See January 21 , 1998 roll call on **HB 38** - Appendix.) **HB 38** was passed and the title agreed to. Representative Simpson moved that the vote by which **HB 38** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 56 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 56** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See January 21 , 1998 roll call on **HB 56** - Appendix.) **HB 56** was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 56** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 23 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 23** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See January 21 , 1998 roll call on **HB 23** - Appendix.) **HB 23** was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 23** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 112, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 112**. Agreed.

Representative Geveden moved that **HB 112**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See January 21, 1998 roll call on **HB 112** - Appendix.) **HB 112**, by way of Committee Substitute, was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 112**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 52**, by Representative Anderson:

On page 1, line 7 after the words "city government" by adding the words "***, parole officer***".

Floor Amendment No. 5 to the Committee Substitute to **HB 52**, by Representative Anderson:

On page 1, line 4, after the words "and counties," by adding the words "***Department of State Police,***"; and
On page 1, line 7, after the words "city government", by adding the words "***, state police officer***"; and
On page 2, line 9, after the word "***sheriffs,***" by adding the words "***state police officers,***"; and
On page 2, line 12 after the words "***deputy sheriffs,***" by adding the words "***state police officers,***"; and
On page 2, line 16, after the words "***deputy sheriffs,***" by adding the words "***state police officers,***"; and
On page 2, line 21, after the words "***deputy sheriffs,***" by adding the words "***state police officers,***"; and
On page 3, line 7, after the words "***deputy sheriffs,***" by adding the words "***state police officers,***"; and
On page 3, line 13, after the words "***university police,***" by adding the words "***state police officers,***"; and
On page 3, line 18, after the word "***department,***" by adding the words "***Department of State Police,***"; and
On page 3, line 23, after the word "***department,***" by adding the words "***Department of State Police,***"; and
On page 3, line 27, after the word "***department,***" by adding the words "***Department of State Police,***".

Floor Amendment No. 6 to the Committee Substitute to **HB 52**, by Representative Anderson:

On page 1, line 7 after the words "city government" by adding the words "***, wildlife conservation officer***".

Floor Amendment No. 7 to the Committee Substitute to **HB 52**, by Representative Anderson:

On page 7, line 10 by deleting the word "***seven***" and inserting in lieu thereof "***ten thousand dollars ($10,000)***"; and
On page 7, line 11 by deleting the words "***thousand five hundred dollars ($7,500)***".

Orders of the Day (Continued)

HB 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 137** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See January 21 , 1998 roll call on **HB 137** - Appendix.) **HB 137** was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 137** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 101** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that **HB 306** be reassigned to the Committee on Labor and Industry and that the three day posting requirement be waived. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 313** and **HB 314**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills (Continued)

HB 340, by Representative Stumbo: AN ACT relating to reorganization.

HB 341, by Representative Stumbo: AN ACT relating to reorganization.

HB 342, by Representative Stumbo: AN ACT relating to reorganization.

HB 343, by Representative Stumbo: AN ACT relating to reorganization.

HB 344, by Representative Stumbo: AN ACT relating to reorganization.

HB 345, by Representative Stumbo: AN ACT relating to reorganization.

HB 346, by Representative Stumbo: AN ACT relating to government reorganization.

HB 347, by Representative Stumbo: AN ACT relating to reorganization.

HB 348, by Representative Stumbo: AN ACT relating to reorganization.

HB 349, by Representative Stumbo: AN ACT relating to reorganization.

HB 350, by Representative Stumbo: AN ACT relating to reorganization.

HB 351, by Representative Stumbo: AN ACT relating to government reorganization.

HB 352, by Representative Stumbo: AN ACT relating to reorganization.

HB 353, by Representative Stumbo: AN ACT relating to reorganization.

HB 354, by Representative Stumbo: AN ACT relating to reorganization.

HB 355, by Representative Stumbo: AN ACT relating to reorganization.

HB 356, by Representative Stumbo: AN ACT relating to reorganization.

HB 357, by Representative Stumbo: AN ACT relating to the reorganization of the Finance and Administration Order.

HB 358, by Representative Stumbo: AN ACT relating to reorganization.

HB 359, by Representative Stumbo: AN ACT relating to reorganization.

HB 360, by Representative Stumbo: AN ACT relating to reorganization.

HB 361, by Representative Stumbo: AN ACT relating to reorganization.

HB 362, by Representative Stumbo: AN ACT relating to reorganization.

HB 363, by Representative Stumbo: AN ACT relating to reorganization.

HB 364, by Representative Stumbo: AN ACT relating to reorganization.

HB 365, by Representative Stumbo: AN ACT relating to reorganization.

HB 366, by Representative Stumbo: AN ACT relating to reorganization.

HB 367, by Representative Stumbo: AN ACT relating to reorganization.

HB 368, by Representative Worthington: AN ACT relating to the taxation of manufactured housing.

HB 369, by Representative Worthington: AN ACT relating to the designation of Fleming County as the "Covered Bridge Capital of Kentucky."

HB 370, by Representative A. Arnold: AN ACT relating to jail standards.

HB 371, by Representatives Stumbo and Moberly: AN ACT relating to recycling and making an appropriation therefor.

HB 372, by Representative Zimmerman: AN ACT relating to operator's licenses.

HB 373, by Representative Zimmerman: AN ACT proposing to amend Section 170 of the Constitution of Kentucky relating to finances of the Commonwealth.

HB 374, by Representative Heleringer: AN ACT relating to securities.

HB 375, by Representatives Adkins and Stumbo: AN ACT relating to the Commission on Sports, Physical Activity, and Wellness.

HB 376, by Representative Damron: AN ACT relating to electric cooperatives.

HB 377, by Representatives Marzian, Yonts, G. Graham and Jordan: AN ACT relating to funding of public libraries in Kentucky.

HB 378, by Representatives Crall, G. Graham, Nunn, Treesh, Scott and Walton: AN ACT relating to budget statements.

HB 379, by Representative Worthington: AN ACT relating to revenue and taxation.

HB 380, by Representatives Marzian, L. Clark, and Horlander: AN ACT relating to health insurance.

HB 381, by Representatives Marzian, Palumbo, Wayne, Jordan, Stein, Stumbo, Burch, Jenkins, DeWeese, Walton and Crenshaw: AN ACT relating to youth access to tobacco products.

HB 382, by Representatives Geveden, Adkins, Callahan, Bruce, J. Adams, and L. Clark: AN ACT relating to private activity bond allocation and declaring an emergency.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Counties and Special Districts: **HB 233, HB 236, HB 247**

Motions, Petitions, and Communications (Continued)

Representative Long moved the adoption of the following **Legislative Citation No. 28**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its most sincere congratulations and genuine esteem for Ashar S. Tullis whose dedicated efforts on behalf of persons with behavioral health issues is unmatched in the Commonwealth of Kentucky and beyond. He has served as advocate, legislative liaison and author to assure their voices are heard by those who can provide assistance. Whereas, the poet Robert Frost illuminated said recipient's career and heart well when he said, "There are many kinds of courage and bravery under fire; courage to risk reputation, friendship and career for convictions which are deeply held. Perhaps the rarest courage of all, for the skill to pursue it is given to the very few, is the courage to wage the battle to illuminate the nature of man and the world in which he lives." So it can be said about the very admirable Ashar Tullis and the Kentucky House of Representatives doth this day rejoice for the life that he has lived. **Legislative Citation No. 28** was adopted without objection.

Representative Kerr moved the adoption of the following **Legislative Citation No. 29**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of June Rich. The House of Representatives joins Representative Thomas Kerr in expressing its deepest sympathy to all who share in the loss on the passing of this loving wife of Dr. James R. Rich; devoted mother of Jimmy Rich, David Rich and Sara Trauth; cherished sister of James J. Hardy; and adoring grandmother of six grandchildren. This exceptional Kentucky citizen was a dedicated homemaker and a faithful member of the Sunny Acres Methodist Church in Independence, Kentucky. This much-loved woman is remembered this day with gratitude for her remarkable life and with sincere and heartfelt condolences to her family and friends. **Legislative Citation No. 29** was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 30**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Harold Ray Taylor. The House of Representatives joins Representative Sheldon Baugh in expressing its deepest sympathy to all who share in the great loss on the passing of this devoted son of the late John Riley and Annie Bell Eddings Taylor; loving husband of Dovie Williams Taylor; adored father of three sons, Robert Taylor, Jeff Taylor and Craig Taylor; and proud grandfather of four grandchildren, three step-grandchildren and two great-grandchildren. Harold Taylor was a salesman for KAR Products and a member of Lewisburg United Methodist Church. His memory will continue to be an inspiration to all whose lives were illuminated by his earthly sojourn and will surely serve as a beacon for others to follow. **Legislative Citation No. 30** was adopted without objection.

Representative Baugh moved the adoption of the following **Legislative Citation No. 32**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Wyatt Ewing Ezell. The House of Representatives joins Representative Sheldon Baugh in expressing its profound sympathy to all who share in the loss on the passing of this outstanding gentleman, born in Butler County and longtime resident of Auburn, Logan County, Kentucky; loving son of the late Gattie and Ida Lillian Dial Ezell; beloved husband of Mary Dee Bewley Ezell; loving father of Betty Crabtree and Wyatt Walker Ezell; devoted stepfather of James David Samson and Linda Lynch; and cherished grandfather and great-grandfather. Wyatt Ewing Ezell served his community as a magistrate in Logan County for eight years and was a retired farmer and highly esteemed member of the community. He was a valued member of the Pearce Memorial Church, Auburn Lodge No. 374 F and AM, Logan County Shriners Club, Royal Arch, and Rizpah Temple. We remember his generous and remarkable contributions on this day and offer our sincere condolences to those whose fortune it was to share his life. **Legislative Citation No. 32** was adopted without objection.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 42**:

HR 42, A RESOLUTION commending Catholic schools and celebrating national Catholic Week.

WHEREAS, nationwide there are more than 2.6 million students in some 8,250 elementary and secondary schools that will be celebrating "Catholic Schools Week"; and

WHEREAS, the theme of the 1998 observance of "Catholic Schools Week" is "Restoring Faith in Education"; and

WHEREAS, during the week of January 26 to January 30, 1998, Catholic elementary and secondary schools will commemorate the right to freedom of choice guaranteed by the First Amendment and celebrate Catholic education's contributions to our society; and

WHEREAS, of the 2.6 million Catholic students across the nation, over 45,000 attend 148 schools in the Commonwealth of Kentucky; and

WHEREAS, Kentucky's Catholic schools are to be commended for providing the students of our state, as well as the nation, with basic moral and spiritual foundations while maintaining educational guidelines set by Kentucky's Department of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body declares January 26 to January 30, 1998, to be Catholic Schools Week in Kentucky and, by doing so, recognize the invaluable service of the Catholic schools to the youth of Kentucky.

Section 2. The Clerk of the House is directed to transmit a copy of this Resolution to Kim O'Reel, Kentucky Catholic Conference, 1042 Burlington Lane, Frankfort, Kentucky 40601.

There being no objection **HR 42** was adopted.

Representative Heleringer moved that a call of the roll be taken to show co-sponsors of **HR 42**. (See January 21, 1998 co-sponsor roll calls.)

Representative L. Clark moved that **HB 204** be withdrawn. Agreed. Representative Baugh moved that **HR 43** be withdrawn. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Nesler moved that he be recorded as voting "yea" on **HB 185, HB 28, HB 86, HB 104, HB 172,** and **HB 2**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Reinhardt moved that he be recorded as voting "yea" on **HB 86, HB 104, HB 2, HB 176, HB 185,** and **HB 28**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative

Deskins moved that he be recorded as voting "yea" on **HJR 2**, **HB 53**, **HB 27**, **HB 145**, **HB 170**, **HB 198**, **HB 199**, and **HB 6**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 130**, **HB 137**, **HB 159**, **HB 161**, Representative Palumbo; **HB 39**, Representative Colter; **HB 52**, Representative Napier; **HB 58**, Representative D. D. Butler; **HB 68**, Representative Bratcher; **HB 74**, Representative Hoover; **HB 85**, Representative Napier; **HB 118**, Representative L. Clark; **HB 256**, Representative Geveden; **HB 289**, Representative Brown; **HB 305**, Representative Stumbo; **HB 315**, Representative Cave; **HB 382**, Representative Mason.

Announcements

The following meeting was announced:

Minority Caucus, Room 113, 3:00 p.m., January 22, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 22, 1998.

On the roll call the vote was **Yeas 87**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, J. Arnold, Ballard, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, Burch, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, D. Graham, G. Graham, Gray, Hatcher, Haydon, Heleringer, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Moberly, Murgatroyd, Napier, Nesler, Newsome, Nunn, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 3**--Crall, Maricle, Stewart.

The motion to adjourn was adopted.

THURSDAY, JANUARY 22, 1998

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Senate Message

Announcing passage of **SB 1, SB 20, SB 48,** and **SB 59**. (Time: 2:10 p.m.)

The Clerk read the Certificate of Election from the Secretary of State of the newly elected member from Jefferson 28. Representative Stumbo moved that the Journal show the newly elected member produced a certificate of election and that the certificate be confirmed. Agreed. Representative Charles Miller produced a certificate of election and was duly sworn by The Honorable Martin E. Johnstone, Justice of the Supreme Court of Kentucky.

The roll was called. All members present except Representative Baugh.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 21, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 383, by Representative Geveden: AN ACT relating to the Auditor of Public Accounts.

HB 384, by Representative Bratcher: AN ACT relating to local air boards.

HB 385, by Representatives Gooch, J. Arnold, Treesh, Crall, Anderson, Ballard, and Yonts: AN ACT relating to property tax.

HB 386, by Representative Treesh: AN ACT relating to education and declaring an emergency.

HB 387, by Representative Moberly: AN ACT relating to tax administration.

HB 388, by Representative Moberly: AN ACT relating to revenue and taxation.

HB 389, by Representative Moberly: AN ACT relating to inheritance tax.

HB 390, by Representatives Zimmerman, Gooch, and Riggs: AN ACT relating to insurance.

HR 52, by Representative A. Arnold: A RESOLUTION adjourning the House of Representatives in honor of Markeeta Blackburn Farris.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 346**

Appropriations and Revenue: **HB 368, HB 379**

Banking and Insurance: **HB 338, HB 374**

Counties and Special Districts: **HB 370**

Economic Development: **HB 342, HB 344**

Education: **HB 378**

Elections & Constitutional Amendments: **HB 373**

Health and Welfare: **HB 380, HB 381**

Judiciary: **HB 334**

Labor and Industry: **HB 353**

Licensing and Occupations: **HB 339**

Natural Resources and Environment: **HB 354, HB 362, HB 371**

State Government: **HB 335, HB 336, HB 337, HB 340, HB 343, HB 347, HB 348, HB 349, HB 350, HB 351, HB 352, HB 355, HB 356, HB 357, HB 358, HB 359, HB 360, HB 361, HB 363, HB 364, HB 365, HB 366, HB 367, HB 375, HB 377, HB 382**

Tourism and Energy: **HB 341, HB 345, HB 376**

Transportation: **HB 369, HB 372**

Report of Committees

The Committee on Labor and Industry reported **HB 305** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 305, AN ACT relating to minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than ***the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1). The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and does not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, adoption of the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter***[~~four dollars and twenty-five cents ($4.25) an hour~~].

(2) For any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the employer may pay as a minimum fifty percent (50%) of the wage prescribed in this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in this section was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

The Committee on Transportation reported **HB 195**, with Committee Substitute attached thereto, **HB 248**, **HB 264**, and **HB 265** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 195, AN ACT relating to off-road vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.010 is amended to read as follows:

As used in this chapter:

(1) "Department" means the Department of Highways.

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.

(5) "Manufactured home" has the same meaning as defined in KRS 186.650.

(6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds.

(7) "Operator" means the person in actual physical control of a vehicle.

(8) "Pedestrian" means any person afoot.

(9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(12) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.

(13) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(14) "Sharp curve" means a curve of not less than thirty (30) degrees.

(15) "State Police" includes any agency for the enforcement of the highway laws established pursuant to law.

(16) "Steep grade" means a grade exceeding seven percent (7%).

(17) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1,000) pounds.

(18) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(19) (a) "Vehicle" includes:

1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and

2. All vehicles passing over or upon the highways.

(b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:

1. Road rollers;

2. Road graders;

3. Farm tractors;

4. Vehicles on which power shovels are mounted;

5. Construction equipment customarily used only on the site of construction and which is not practical for the

transportation of persons or property upon the highways;

6. Vehicles that travel exclusively upon rails;

7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality; and

8. Vehicles propelled by muscular power.

(20) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(21) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.

(22) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.

(23) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area.

(24) "All-terrain vehicle" means any motor vehicle for off-road use, which is fifty (50) inches or less in width; has a dry weight of six hundred (600) pounds or less; travels on three (3) or more low pressure tires; is designed for operator use only with no passengers; and has a seat or saddle designed to be straddled by the operator, and handle bars for steering control.

(25) (a) "Off-road vehicle" means any vehicle designed for or capable of cross-country travel on or immediately over land, water, ice, snow, marsh, swampland, or other natural terrain without benefit of a road or trail including, but not limited to, the following:

1. All-terrain vehicles;

2. Dune buggies;

3. Motorcycles, trail bikes, minibikes, and related vehicles;

4. Multiwheel drive or low-pressure tire vehicles;

5. Vehicles using an endless belt, or tread, or a combination of tread and low-pressure tires; and

6. Any other means of transportation that derives power from any source other than muscle or wind, except as provided in paragraph (b) of this subsection;

(b) "Off-road vehicle" does not include:

1. Aircraft;

2. Any military, fire, or law enforcement vehicle;

3. Any vehicle being used at a work site for farm purposes, earth moving, or construction;

4. Farm-type tractors and other self-propelled equipment for harvesting and transporting farm or forest products;

5. Motorboats registered under KRS Chapter 235; and

6. Self-propelled lawnmowers, lawn or garden tractors, or golf carts, if being used exclusively for their designed purpose.

Section 2. KRS 189.515 is amended to read as follows:

(1) ***Except for a motorcycle or other off-road vehicle required to be registered and licensed under KRS Chapters 186 and 186A, and except as provided in subsection (2) of this section, a***[~~No~~] person shall ***not*** operate an ***off-road***[~~all terrain~~] vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) ***A fiscal court may permit an off-road vehicle to operate on a segment of a county road within the county for the sole purpose of permitting an off-road vehicle that has come to the end of a designated United States Forest Service trail to travel upon a specified segment of a county road to reach the head or continuation of a designated United States Forest Service trail. The segments of roads that a fiscal court may authorize shall be designated and adopted in a county ordinance. A fiscal court shall erect warning signs on every segment of a county road where the fiscal court has by ordinance authorized an off-road vehicle to be operated. The signs shall warn motorists of the presence of off-road vehicles and shall be placed at the beginning, the end, and periodically in between, on the segment.***

(3) The United States Forest Service may petition the Transportation Cabinet in writing to authorize segments of state roads where off-road vehicles may be operated, for the sole purpose of permitting an off-road vehicle that has come to the end of a designated United States Forest Service trail to travel upon a specified segment of a state road to

reach the head or continuation of a designated United States Forest Service trail. Except as provided in subsection (4) of this section, the Transportation Cabinet shall by official order authorize off-road vehicles to be operated on any state road included in a petition from the United States Forest Service. The Transportation Cabinet shall erect warning signs on every segment of a state road on which the cabinet has by official order authorized an off-road vehicle to be operated. The signs shall warn motorists of the presence of off-road vehicles and shall be placed at the beginning, the end, and periodically in-between on the segment.

(4) ***The Transportation Cabinet shall not authorize an off-road vehicle to be operated on any segment of an interstate, parkway, fully controlled access highway, or limited access facility.***

(5) ***A***[~~No~~] person shall ***not*** operate an ***off-road***[~~all-terrain~~] vehicle on any public or private property without the ***written*** consent of the landowner, tenant, or governmental agency responsible for the property, and unless the operator wears approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of the all-terrain vehicle is engaged in farm or agriculture related activities.

(6)[~~(3)~~] ***A***[~~No~~] person under the age of sixteen (16) years shall ***not*** operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, nor shall any person under the age of sixteen (16) years operate an all-terrain vehicle except under direct parental supervision.

(7)[~~(4)~~] ***A***[~~No~~] person under the age of twelve (12) years shall ***not*** operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

The Committee Substitute to **HB 195** is as follows:

AN ACT relating to off-road vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.010 is amended to read as follows:

As used in this chapter:

(1) "Department" means the Department of Highways.

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct, or trestle and the approaches to them and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. If the intersecting highway also includes two (2) roadways thirty (30) feet or more apart, every crossing of two (2) roadways of the highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.

(5) "Manufactured home" has the same meaning as defined in KRS 186.650.

(6) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks, or bodies having a load capacity of not exceeding one thousand (1,000) pounds.

(7) "Operator" means the person in actual physical control of a vehicle.

(8) "Pedestrian" means any person afoot.

(9) "Right-of-way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(10) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(11) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(12) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1,000) pounds.

(13) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(14) "Sharp curve" means a curve of not less than thirty (30) degrees.

(15) "State Police" includes any agency for the enforcement of the highway laws established pursuant to law.

(16) "Steep grade" means a grade exceeding seven percent (7%).

(17) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1,000) pounds.

(18) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(19) (a) "Vehicle" includes:

1. All agencies for the transportation of persons or property over or upon the public highways of the Commonwealth; and
2. All vehicles passing over or upon the highways.

(b) "Motor vehicle" includes all vehicles, as defined in paragraph (a) of this subsection except:

1. Road rollers;
2. Road graders;
3. Farm tractors;
4. Vehicles on which power shovels are mounted;
5. Construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways;
6. Vehicles that travel exclusively upon rails;
7. Vehicles propelled by electric power obtained from overhead wires while being operated within any municipality or where the vehicles do not travel more than five (5) miles beyond the city limits of any municipality; and
8. Vehicles propelled by muscular power.

(20) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(21) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.

(22) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.

(23) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area.

(24) "All-terrain vehicle" means any motor vehicle for off-road use, which[~~ is fifty (50) inches or less in width; has a dry weight of six hundred (600) pounds or less;~~] travels on ***two (2)***[~~three (3)~~] or more[~~ low pressure~~] tires; is designed for operator use[~~ only with no passengers~~]; and has a seat or saddle designed to be straddled by the operator, and handle bars for steering control.

Section 2. KRS 189.515 is amended to read as follows:

(1) ***Except for vehicles authorized to operate on a public highway as of the effective date of this Act, and except as provided in subsection (2) of this section, a***[~~No~~] person shall ***not*** operate an all-terrain vehicle upon any public highway

or roadway or upon the right-of-way of any public highway or roadway.

(2) ***A fiscal court may permit an all-terrain vehicle to operate on any segment of a county road within the county. A city may permit an all-terrain vehicle to operate on any segment of a city street within the city. The Transportation Cabinet may permit an all-terrain vehicle to operate on any segment of a state road.***

(3) No person shall operate an all-terrain vehicle on any public or private property without the consent of the landowner, tenant, or governmental agency responsible for the property, and unless the operator wears approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion. The approved headgear requirement shall not apply when the operator of the all-terrain vehicle is engaged in farm or agriculture related activities.

(4)[~~(3)~~] No person under the age of sixteen (16) years shall operate an all-terrain vehicle with an engine size exceeding ninety (90) cubic centimeters displacement, nor shall any person under the age of sixteen (16) years operate an all-terrain vehicle except under direct parental supervision.

(5)[~~(4)~~] No person under the age of twelve (12) years shall operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement.

HB 248, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. To honor veterans from Letcher County who have served the Commonwealth and our great nation in the armed services, US highway 119 from KY 15 at Whitesburg to US 23 near Jenkins shall be named "The Letcher County Veterans Memorial Highway". The Transportation Cabinet is directed to erect the necessary signs at the start of each end of the designated segment.

HB 264, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.665 is amended to read as follows:

(1) (a) A license shall be required of each motor carrier or heavy equipment motor carrier subject to the provisions of KRS 138.660 before he uses or continues to use the public highways of this state.

(b) Notwithstanding the requirement in subsection (1)(a), the cabinet may issue a trip permit for each motor vehicle subject to KRS 138.660(1) for a fee of twenty dollars ($20) for each permit. If the vehicle is subject to those taxes in KRS 138.660(1) to (3), the cabinet may issue a trip permit for each motor vehicle for a fee of forty dollars ($40) for each permit.

(2) Application for a license or trip permit shall be made to the cabinet and shall contain such information as the cabinet deems necessary.

(3)[~~Concurrently with the filing of an application for a license, the motor carrier or heavy equipment motor carrier shall file with the cabinet a bond as required under KRS 138.670. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.670 to secure payment of taxes, penalties and interest imposed by KRS 138.660 to 138.7291.~~

~~(4)~~] The application in proper form having been accepted for filing, the bond***, if required,*** having been accepted and approved and the other conditions and requirements of this section having been complied with, the cabinet shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the cabinet, or if the cabinet is of the opinion that the person who makes the application does so as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not sufficient cause, the cabinet may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(4)[~~(5)~~] All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(5)[~~(6)~~] A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(6)[~~(7)~~] The cabinet shall keep and file all applications and bonds, with an alphabetical index thereof.

(7)[~~(8)~~] Each holder of a license required by subsection (1) shall display his license number or other identification on or in each vehicle subject to the taxes imposed by KRS 138.655 to 138.7291 in the manner prescribed by the cabinet. The cabinet may require the license number or other identifier to be displayed so that it can be readily recorded either manually or electronically by cabinet representatives. In addition, the cabinet may require each individual unit in the license holder's fleet of vehicles subject to these taxes to be uniquely identified.

(8)[~~(9)~~] The provisions of this section shall not apply to a nonresident motor carrier engaged in transporting passengers for hire in irregular route interstate charter or special operations, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

Section 2. KRS 138.670 is amended to read as follows:

(1) ***A***[~~Every~~] motor carrier ***or***[~~and~~] heavy equipment motor carrier ***determined by the Transportation Cabinet to be at risk for nonpayment of its highway use taxes*** shall file with the cabinet a corporate bond, cash bond***,*** or securities approved by the cabinet in the minimum amount of one thousand dollars ($1,000) and in a maximum amount of four (4) months' liability for taxes imposed under KRS 138.655 to 138.725 but not to exceed fifty thousand dollars ($50,000). The applicant for a license shall be the principal obligor and this state shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the cabinet of all taxes levied under KRS 138.655 to 138.725, together with all penalties and interest thereon and generally upon faithful compliance with the provisions of KRS 138.655 to 138.725.

(2) If the liability upon the bond is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the cabinet any surety has become unsatisfactory or unacceptable, the cabinet may require the licensee to file a new bond with satisfactory surety in the same form and amount, failing which the cabinet shall forthwith cancel the license. If a new bond is furnished by the licensee as above provided, the cabinet shall cancel the bond for which the new bond is substituted.

(3) If, upon hearing of which the licensee shall be given ten (10) days' notice in writing, the cabinet decides that the amount of the existing bond is insufficient to insure payment to this state of the amount of the tax, penalties and interest for which the licensee is or may become liable, the licensee shall forthwith, upon written demand of the cabinet, file an additional bond in the same manner and form with surety thereon approved by the cabinet, in any amount determined by the cabinet to be necessary, failing which the cabinet shall forthwith cancel the license.

(4) Any surety on a bond furnished by a licensee shall be released from all liability to this state accruing on such bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the cabinet, a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The cabinet shall promptly, on receipt of the request, notify the licensee who furnished the bond, and unless the licensee shall, before the expiration of the sixty (60) day period, file with the cabinet a new bond with surety satisfactory to the cabinet in the amount and form hereinbefore provided, the cabinet shall forthwith cancel the license. If the new bond is furnished by the licensee as above provided, the cabinet shall cancel the bond for which the new bond is substituted.

Section 3. KRS 138.685 is amended to read as follows:

(1) Every licensee shall file with the cabinet, ***in the format***[~~on forms~~] prescribed by the cabinet, a quarterly tax return. The return shall be made under penalty of perjury and shall show such information as the cabinet may require. The licensee shall file the return on or before the last day of the next succeeding calendar month following the quarterly period to which it relates.

(2) The quarterly tax return shall be accompanied by a remittance covering the tax due.

Section 4. KRS 138.710 is amended to read as follows:

(1) The reports required by KRS 138.685 shall be accompanied by a certified***, electronic,*** or cashier's check payable to the State Treasurer for the amount of tax due for the preceding calendar quarter computed as provided in KRS 138.690, except that the cabinet may waive this requirement and accept the check of the licensee if he is of sound financial condition and has established a good record of compliance with the requirements of KRS 138.655 to 138.725, inclusive.

(2) The Transportation Cabinet may promulgate administrative regulations providing for the payment by credit card of any tax or fee that it collects. The administrative regulation may require the payee to add to his tax or fee, the administrative charge of the financial institution.

Section 5. KRS 138.715 is amended to read as follows:

(1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid on the tax.

(2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the cabinet in writing the reasons for failure to comply with KRS 138.660 to 138.7291 and if the cabinet finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation by the taxpayer within the twelve (12) months.

(3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060. Whenever any licensee neglects

or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the cabinet shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.660 to 138.7291 for any particular quarter and assess and collect the amount of tax and penalties due.

(4) Any licensee who fails to make any report required under the provisions of KRS 138.660 to 138.7291 within the time allowed may be required to pay a penalty of fifty dollars ($50) ***for a first offense, two hundred fifty dollars ($250) for a second offense, or five hundred dollars ($500) for any subsequent offense within any four (4) year period. The penalty is*** to be assessed and collected in the manner provided for the assessment and collection of taxes, or ***the licensee*** may be proceeded against in a civil action instigated by the cabinet. In addition, such licensee may be compelled to make the required return.

(5) In any action for the collection of taxes due under KRS 138.660 to 138.7291 and any penalties or interest imposed in connection therewith, an assessment by the cabinet of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

HB 265, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.042 is amended to read as follows:

(1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:

(a) Cannot walk two hundred (200) feet ***or sixty-one (61) meters*** without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;

(c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(d) Use portable oxygen;

(e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a disability. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1)***, for a motorcycle as set forth in KRS 186.050(2),*** or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plate or renewal decal.

(3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:

(a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or

(b) A statement from a licensed physician that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.

(4) Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. When the accessible parking plate has been presented to the clerk, he shall reissue the plate, free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the accessible parking plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license plate to Frankfort.

(5) When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by

or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(6) Any person with a disability seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(7) Registration under this section shall expire July 31.

(8) The cabinet may promulgate the administrative regulations necessary to further the purpose of this section.

The Committee on Banking and Insurance reported **HB 30** and **HB 315**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 30, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-110 is amended to read as follows:

All health benefit plans issued or renewed on or after July 15, 1995, shall comply with the following provisions:

(1) All health benefit plans shall be renewable with respect to all eligible persons and dependents at the option of the policyholder or contract holder, except:

(a) For nonpayment of the required premiums by the policyholder or contract holder;

(b) For fraud or misrepresentation of the policyholder or contract holder;

(c) For intentional and abusive noncompliance with health benefit plan provisions;

(d) If the insurer ceases doing business in Kentucky and notice of the decision to cease to do business in Kentucky is provided to the department, and to either the policyholder or contract holder. Health benefit plans shall not be canceled by the insurer for one (1) year after the date of the notice required under this paragraph unless the business has been sold to another insurer. An insurer that ceases to do business in Kentucky shall not reenter Kentucky for a period of five (5) years from the date of the notice required under this paragraph***, unless the insurer files with the commissioner a written request to reenter Kentucky and the commissioner approves the request in writing. The commissioner shall approve or disapprove a request for reentry within thirty (30) days of receipt of the request***.

(2) (a) Pre-existing conditions provisions shall not exclude or limit coverage for a period beyond six (6) months, or twelve (12) months for health benefit plans issued after July 15, 1996, following the individual's effective date of coverage and may only relate to conditions which had, during the six (6) months, or twelve (12) months for health benefit plans issued after July 15, 1996, immediately preceding the effective date of coverage, manifested themselves in a manner that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment or for which medical advice, diagnosis, care, or treatment was recommended or received or as to a pregnancy existing on the effective date of coverage;

(b) In determining whether a pre-existing conditions provision applies to a person covered under a plan, all health benefit plans shall credit the time the person was covered under a previous health benefit plan provided by an insurer, including Medicaid and Medicare, if the previous coverage was continuous to a date not more than sixty (60) days prior to the effective date of the new coverage.

(3) Health care benefit plans shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and is willing to meet the terms and conditions for participation established by the health benefit plan.

(4) No individually insured person shall be required to replace an individual policy with group coverage on becoming eligible for group coverage that is not provided by an employer. In a situation where a person holding individual coverage is offered or becomes eligible for group coverage not provided by an employer, the person holding the individual coverage shall have the option of remaining individually insured, as the policyholder may decide. This shall apply in any such situation that may arise through the Kentucky Health Purchasing Alliance, any other health purchasing alliance, an association, an affiliated group, the Kentucky state employee health insurance plan, or any other entity.

HB 315, AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in Section 11 of this Act, with similar case characteristics for health benefit plans with the same or similar coverage.

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33).

(5) "COBRA" means any of the following:

- *(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;*
- *(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or*
- *(c) 42 U.S.C. sec. 300bb;*

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

  - *1. A group health plan;*
  - *2. Health insurance coverage;*
  - *3. Part A or Part B of Title XVIII of the Social Security Act;*
  - *4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;*
  - *5. Chapter 55 of Title 10, United States Code;*
  - *6. A medical care program of the Indian Health Service or of a tribal organization;*
  - *7. A state health benefits risk pool;*
  - *8. A health plan offered under Chapter 89 of Title 5, United States Code;*
  - *9. A public health plan, as defined in regulations; or*
  - *10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).*

- *(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section.*

(7) "Eligible individual" means an individual:

- *(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;*
- *(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and does not have other health insurance coverage;*
- *(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a), (b), and (c) in Section 6 of this Act;*
- *(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and*
- *(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;*

(8) "Employer-organized association" means any of the following:

- *(a) Any entity that was qualified by the commissioner as an eligible association prior to the effective date of this Act, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;*

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

No employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics; or

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for calculating assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under Sections 15 to 23 of this Act;

(15) "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Does not hold a valid certificate of insurability;

(c) Is not eligible for or covered by other health benefit plan coverage;

(d) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high cost condition;

(e) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(f) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or reinsurer;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) "Health status" means an individual's mental and physical condition, using the following factors: medical condition, claims experience, medical history, and health service utilization;

(20) (a) "High cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with Section 14 of this Act, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, friedreich's ataxia, hemophilia, hodgkin's disease, huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and wilson's disease;

(21) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25) "Large group" means:

- *(a) An employer with fifty-one (51) or more employees; or*
- *(b) An affiliated group with fifty-one (51) or more eligible members.*

(26) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(27) "Market segment" means the portion of the market covering one (1) of the following:

- *(a) Individual;*
- *(b) Small group;*
- *(c) Large group; or*
- *(d) Association;*

(28) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(29) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(30) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(31) "Purchasing cooperative" means any voluntary collection of one hundred (100) or more individuals or organizations who band together for the purposes of purchasing health insurance. "Purchasing cooperative" does not mean:

- *(a) Any multiemployer plan, any multiple employer welfare arrangement, or any trust or other arrangement by which health benefit plans are issued to a group health plan;*
- *(b) Any employer-organized association; or*
- *(c) Any collection of individuals or organizations organized or established by a health insurer;*

(32) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(33) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(34) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(35) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(36) "Small group" means:

- *(a) A small employer with two (2) to fifty (50) employees; or*
- *(b) An affiliated group or association with two (2) to fifty (50) eligible members; and*

(37) "Standard benefit plan" means the plan identified in Section 7 of this Act.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS

FOLLOWS:

(1) Each insurer that offers health benefit plan coverage for small groups shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health benefit plan and shall comply with the provisions of 42 U.S.C. secs. 300gg-1 and 300gg-11.

(2) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be issued on a guaranteed-issue basis to all full-time employees and shall comply with the pre-existing condition provisions of Section 4 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the individual market on a guaranteed-issue basis as follows:

(1) Except as provided in subsection (2) of this section, an individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(2) Except as provided in subsection (3) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:

(a) The standard health benefit plan; or

(b) The insurer's health benefit plan, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plan sold so that it qualifies as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate any health benefit plan made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plan so that it qualifies as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(3) If the insurer does not generally operate in the individual market and has elected under subsection (3)(a) of Section 17 of this Act to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.

(2) Subject to subsection (5) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:

(a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date;

(b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date; and

(c) The period of that pre-existing condition exclusion is reduced by the aggregate of the periods of creditable coverage, or applicable to the participant or beneficiary as of the enrollment date.

(3) For purposes of this section:

(a) 1. "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date; and

2. Genetic information shall not be treated as a condition described in subparagraph 1. of this paragraph in the absence of a diagnosis of the condition related to this information;

(b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment;

(c) "Late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or

2. A special enrollment period under subsection (7) of this section; and

(d) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

(4) (a) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after the period and before the enrollment date, there was a sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(b) For purposes of paragraph (a) of this subsection and subsection (5)(d) of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period, as defined in subsection (8)(b) of this section, shall not be taken into account in determining the continuous period under paragraph (a) of this subsection.

(c) 1. Except as otherwise provided under paragraph (b) of this subsection, for purposes of applying subsection (2)(c) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

2. A group health plan, or a health insurance insurer offering group health insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under paragraph (a) of this subsection. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under paragraph (b) of this subsection, whether or not health insurance coverage is provided in connection with the plan, the plan shall:

a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and

b. Include in these statements a description of the effect of this election.

(d) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (6) of this section or in such other manner as may be specified in administrative regulations.

(5) (a) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of an individual who, as of the last day of the thirty (30) day period beginning with the date of birth, is covered under creditable coverage.

(b) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last day of the thirty (30) day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of the adoption or placement for adoption.

(c) A group health plan, and health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion relating to pregnancy as a pre-existing condition.

(d) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(6) (a) 1. A group health plan, and a health insurance insurer offering group health insurance coverage, shall provide the certification described in subparagraph 2. of this subsection:

a. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision;

b. In the case of an individual becoming covered under that provision, at the time the individual ceases to be covered under the provision; and

c. On request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The certification under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:

a. The period of creditable coverage of the individual under the plan and the coverage, if any, under the COBRA continuation provision; and

b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.

3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.

(b) In the case of an election described in subsection (4)(c)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:

1. Upon request of that plan or insurer, the entity that issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and

2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.

(7) (a) A group health plan, and a health insurance insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan, or a dependent of that employee if the dependent is eligible, but not enrolled, for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:

1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

2. The employee stated in writing at that time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required that statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;

3. The employee's or dependent's coverage described in subparagraph 1. of this paragraph:

a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or

b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

4. Under the terms of the plan, the employee requests the enrollment not later than thirty (30) days after the date of exhaustion of coverage described in subparagraph 3.a. of this paragraph or termination of coverage or employer contribution described in subparagraph 3.b. of this paragraph.

(b) 1. If:

a. A group health plan makes coverage available with respect to a dependent of an individual;

b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and

c. A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption;

the group health plan shall provide for a dependent special enrollment period described in *subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.*

2. A dependent special enrollment period under this subparagraph shall be a period of not less than thirty (30) days and shall begin on the later of:

a. The date dependent coverage is made available; or

b. The date of the marriage, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.

3. If an individual seeks to enroll a dependent during the first thirty (30) days of the dependent special enrollment period, the coverage of the dependent shall become effective:

a. In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

b. In the case of a dependent's birth, as of the date of the birth; or

c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

(8) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:

1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;

2. The period is applied uniformly without regard to any health status-related factors; and

3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.

(b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

2. This period shall begin on the enrollment date.

3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing conditions exclusions as to any eligible individual.

(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of Section 4 of this Act, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage. Pregnancy may be considered to be a pre-existing condition.

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with health benefit plan provisions;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer; or

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in Sections 2 and 3 of this Act. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of Section 18 of this Act for

inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under Sections 2, 3, 4, 5, and 6 of this Act.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for one (1) year, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects,

lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act for approval to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 9. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers***, shall submit a copy of the filing to the Attorney General,*** and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper~~[, except as provided in subsection (5) of this section]~~.

(2) (a) ***A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing must be approved or diapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearings. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.***

(b) The commissioner shall hold a hearing upon written request; including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.~~[Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that it needs the additional time for consideration of the filing. At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.~~

~~(b) The commissioner may hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~

~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the~~

~~insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) ***The effect on the rates of any assessment made under Section 21 of this Act; and***

(g) Other factors as deemed relevant by the commissioner.

(4) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal***[~~Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing~~].

(5)[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase.~~

~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund ***or future premium credit*** to policyholders, enrollees, and subscribers if the commissioner determines that the ***rates or fees previously approved are in violation of this chapter***[~~benefits are no longer reasonable in relation to the premiums or fees charged~~].

(6) Each insurer paying a risk assessment under Section 21 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(7) The commissioner may by administrative regulation prescribe any additional information ***related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that*** it deems ***necessary and*** relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as

determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until the effective date of this Act for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after the effective date of this Act. The total increase shall not exceed a maximum of thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under Section 15 of this Act shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available. For the purposes of this subparagraph, the premium loss incurred for each policy renewal period shall be determined as being the premium necessary to provide for the excess claims costs of the high-risk individuals. The excess claims costs equals the excess of the average claims costs for high-risk individuals, less the average claims cost of all other individuals with health benefit plans issued during the period from July 15, 1995, until the effective date of this Act, multiplied by the number of high-risk individuals;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after the effective date of this Act; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after the effective date of this Act and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization

of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995 and the effective date of this Act to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in Section 1 of this Act;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in Section 1 of this Act.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period may not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, health status, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after the effective date of this Act. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than June 30, 1999, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on July 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 until the end of the contract or policy period. The provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 shall become null and void on July 1, 1999.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health insurer.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may, by administrative regulation, add to the list of high-cost conditions provided in Section 1 of this Act other high cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 15 to 23 of this Act shall be referred to as the Kentucky Guaranteed Acceptance Program.

(2) The Kentucky Guaranteed Acceptance Program is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(3) Payment to providers of services under program plans shall not be discriminatory. Guaranteed acceptance program insurers shall reimburse providers at rates that are no less favorable than the rates paid to the comparable providers for services delivered to enrollees who do not have a high cost condition.

(4) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Acceptance Program either as a guaranteed acceptance program supporting insurer or a guaranteed acceptance program participating insurer.

  (a) A guaranteed acceptance program insurer participates in the program by both issuing guaranteed acceptance program plans to guaranteed acceptance program qualified individuals in accordance with the provisions of this subtitle and by being subject to assessments and payments through the risk assessment process.

  (b) A guaranteed acceptance program supporting insurer participates in the program only by being subject to assessments and payments through the program risk assessment process.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 15 to 23 of this Act, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses, reserves, or other overhead costs;

(3) "First issuance" means the date a person first became eligible for benefits under a health benefit plan;

(4) "Guaranteed acceptance program plan claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan;

(5) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(6) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program

plan losses provided for in Section 21 of this Act;

(7) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(8) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(9) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers;

(10) "Other coverage" means coverage under any of the following:

- *(a) A group plan;*
- *(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c et seq.;*
- *(c) A state plan under Title XIX of the Social Security Act, or any successor program;*
- *(d) Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(d) or under a similar program under any state law; or*
- *(e) Any other health insurance coverage which is not individual health insurance coverage;*

(11) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(12) "Program" means the Kentucky Guaranteed Acceptance Program;

(13) "Refund" means an amount to be paid to an insurer by the program;

(14) "Reinsurer" means any person providing health insurance stop-loss coverage;

(15) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage; and

(16) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of all insurers participating in the program.

SECTION 17. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer issuing health benefit plans in Kentucky and that had a market share of twenty-five percent (25%) or more for any fiscal year ending June 30 shall be a program participating insurer for the following fiscal year.

(2) On or before July 1, 1998, each insurer issuing health benefit plans in Kentucky, other than the insurers required by subsection (1) of this section to be a program participating insurer, shall advise the commissioner in writing whether it will participate in the program as a program participating insurer or a program supporting insurer. After July 1, 1998, no insurer shall issue health benefit plans in Kentucky without first advising the commissioner in writing that it will participate in the program as a program participating insurer or a program supporting insurer. Any insurer issuing health benefit plans in Kentucky that fails to advise the commissioner of the nature of its participation in the program shall be deemed a program supporting insurer unless it is required by subsection (1) of this section to be a program participating insurer.

(3) An insurer who elects to be a program participating insurer may elect to participate under the following conditions:

- *(a) Network-based insurers may limit coverage to the benefit plans offered to persons residing in the geographic area covered by the providers network; and*
- *(b) A group insurer may elect to be a program participating insurer without otherwise operating in the individual market.*

(4) The department shall publicize a monthly list of program participating insurers.

(5) The provisions of Sections 15 to 23 of this Act shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, or CHAMPUS insureds.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

- *(a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage* *provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;*

(b) An individual entitled to benefits under the health benefit plan either within the previous three (3) years has been diagnosed with or treated for a high-cost condition for which benefits are payable under the health benefit plan and the insurer is aware of the diagnosis or treatment or has had benefits paid under the health benefit plan for a high cost condition;

(c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under Section 2 of this Act;

(d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other that a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For a health benefit plan that is a program plan at the time of first issuance, an insurer may charge an annual premium of up to one hundred fifty percent (150%) of the index rate charged to a person of identical or similar case characteristics but assuming no individual entitled to benefits under the health benefit plan had been diagnosed or treated with a high cost condition for which benefits are payable under the policy.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter, program plans may contain cost containment features, including managed care and utilization management, to control the amount of high cost policy losses without creating excessive adverse health care outcomes.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each fiscal year that the program is operating, every insurer will report to the department, in a form and at the time as the department by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of program plans in force as of December 31;

(c) The amount of the insurer's program plan premiums received during the fiscal year covered by the report;

(d) The amount of the insurer's program plan claims paid during the fiscal year covered by the report;

(e) The amount of the insurer's program plan losses; and

(f) Other information as the department may, by administrative regulation, require to be reported to operate the program.

(2) At the end of each fiscal year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of program plan premiums for all reporting insurers;

(c) The total amount of program plan claims paid by all reporting insurers;

(d) The amount of total actual program plan losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within forty-five (45) days after the reporting deadline.

(3) The department may prepare quarterly estimated calculations for the purposes of allowing insurers who participate in the program to budget for their annual assessments and refunds.

(4) The department may conduct such examinations of insurers participating in the plan as is reasonably necessary to determine if the information provided by the insurers is accurate. At the request of the department, the department shall conduct the examinations.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a risk adjustment process to be used in collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of allocating program plan losses among such insurers.

(2) As part of the risk adjustment process, the department shall establish and maintain a program account. All funds in the program account shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the state accounting and reporting system (STARS) and its successors.

(3) The program account shall be funded from the following sources:

(a) Appropriations from the General Assembly;

(b) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(c) Annual assessments from each reinsurer in an amount which is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums;

(d) An assessment for each fiscal year on the total amount of all health benefit plan premiums written during the prior fiscal year and paid by all insurers who received any of the health benefit plan premiums on which the assessment is based. The first assessment shall be for the fiscal year of July 1, 1998, to June 30, 1999, shall be based on the amount of health benefit plan premiums written during the fiscal year ended June 30, 1998, and the total amount of the assessment against all insurers shall equal seven million eight hundred thousand dollars ($7,800,000). The percentage rate used to determine the 1998-1999 assessment shall be the maximum percentage that may be used to determine the assessment in any subsequent fiscal year. Assessments in any subsequent fiscal year shall be paid on or before the last day of the fiscal year, and the first assessment shall be paid on or before June 30, 1999;

(e) Any special assessments under subsection 4(b) of this section;

(f) Gifts, grants, or other voluntary contributions; and

(g) Interest or other earnings on the investment of the monies held in the account.

(4) After the end of each fiscal year, the department shall calculate the amount of the total actual program plan losses incurred by all insurers for the fiscal year. The first calculation shall be for the fiscal year ended June 30, 1999.

(a) If the amount of total actual program plan losses is less than the amount in the program account, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account.

(b) If the amount of total actual program plan losses is more than the amount in the program account, then the difference shall be considered a program account deficit, and there shall be a second assessment, in addition to the assessment under subsection 3(d) of this section, on all insurers who received any of the health benefit plan premiums on which the assessment under subsection 3(d) is based. The second assessment shall also be a percentage of the health benefit plan premiums except for the following limitations:

1. The percentage rate may not exceed the percentage rate used to determine the 1998-1999 assessment, and

2. The total amount generated from the additional assessment may not exceed the lesser of the program account deficit or seven million eight hundred thousand dollars ($7,800,000). If the second assessment fully eliminates the program account deficit, each insurer shall be reimbursed up to the *amount of its proportional share of program plan losses from the program account. If the second assessment does not fully eliminate the program account deficit, each insurer shall be reimbursed up to its proportional share of program plan losses from the program account in the same proportion that the insurer's program plan losses bears to the total program plan losses of all insurers.*

(5) With respect to an insurer who reasonably will be expected to both pay assessments and receive payments from the program account, the department shall calculate the net amount owed to or to be received from the program account, and the department shall only collect assessments or make payments from the program account based upon net amounts.

(6) Insurers paying an assessment may include in any health insurance rate filing that amount of such assessments as provided in Section 21 of this Act.

(7) Any surpluses remaining in the program account after completion of the risk adjustment process for a fiscal year shall be maintained for use in the risk adjustment process for future fiscal years and such funds shall not lapse. The General Fund appropriations to the program account shall not lapse.

(8) Assessments on health benefit plan premiums that are required under this section shall not be applied to premiums received by an insurer for Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the regular session of the General Assembly in the year 2000, sixty (60) days prior to that session and each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the operations of the program. The report shall contain an evaluation of the program, an evaluation of issues concerning individuals with high-cost conditions, and recommendations for establishing alternative means of providing health benefit plans for those individuals in addition to, or as an alternative to, the risk adjustment mechanism of the program. In order to determine the effectiveness of the program in providing access and affordable insurance to individuals with high-cost conditions and in readjusting the risks of providing health benefit plans to such individuals, the department shall determine:

  (a) The number of individuals with high-cost conditions;

  (b) The number of program plans; and

  (c) The reasons that any program plans are terminated.

(2) Beginning no later than June 30, 1999, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the program, and the costs of the audit shall be born by the department. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the department.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Coverage of an individual who is not a state employee or a small group which on the effective date of this Act is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after the effective date of this Act.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 25 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

  (a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

    1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

    2. Serious impairment to bodily functions; or

    3. Serious dysfunction of any bodily organ or part; or

  (b) With respect to a pregnant woman who is having contractions:

    1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

    2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn *child;*.

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(6) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(7) "Insurer" has the meaning provided in Section 1 of this Act;

(8) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(9) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(10) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(11) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(12) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

  (a) Covered services and benefits to which the enrollee or other covered person is entitled;

  (b) Restrictions or limitations on covered services and benefits;

  (c) Financial responsibility of the covered person, including copayments and deductibles;

  (d) Prior authorization and any other review requirements with respect to accessing covered services;

  (e) Where and in what manner covered services may be obtained;

  (f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

  (g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

  (h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

  (i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

  (j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 26 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

  (a) A current participating provider directory providing information on a covered person's access to primary care

health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the provider's approval.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer that limits coverage for any treatment, procedure, drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, drug or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

3. A description of other alternative treatment, services, or supplies covered by the plan, if any; and

4. Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, procedure, drug, or device is involved;

2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;

3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and

4. Twenty (20) working days of the initiation of the review process in all other instances.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the

covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of the effective date of this Act.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information concerning the patient from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization or continuation of mental health and chemical dependency health services to be provided to the patient, or for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific written consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 25 to 39 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 25 to 39 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the date ninety (90) days after the effective date of this Act, unless it and the insurer meet the requirements of Sections 25 to 39 of this Act.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

  (a) All assessments placed on insurers under Section 21 of this Act;

  (b) All rating restrictions placed on employer-organized associations under Section 11 of this Act;

  (c) All rate review requirements placed on insurers under this subtitle;

  (d) All data collection requirements placed on insurers under this subtitle; and

  (e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

SECTION 41. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by March 30 to the commissioner the following information, in a format prescribed by the *commissioner, on their insurance experience in this state for the preceding calendar year:*

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

  (a) Total cost per health and medical service per insured group per month:

    1. Cost paid by insurer;

    2. Cost paid by insured; and

  (b) Percentage of insured who received each service.

SECTION 42. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical care, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

SECTION 43. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is created within the department a consumer protection and education division, which shall include an office of ombudsman.

Section 44. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer[~~ as defined in KRS 304.17A-100~~], agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

  (a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

  (b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

  (c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) *It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.*

(4) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 21 of this Act. As an alternative, the commissioner may levy a forfeiture on any member insurer that fails to pay the assessment when due. The forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(5) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 45. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 46. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.[

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~]If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 47. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***any rates filed under Subtitle 17A of this chapter,***[~~standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or

which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 48. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 7 -- Investments;

(7) Subtitle 12 -- Trade Practices and Frauds;

(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(9) Subtitle 17A -- Health Benefit Plans;

(10)~~[-- Subtitle 18 -- KRS 304.18-050;~~

~~(11)~~] Subtitle 25 -- Continuity of Management;

(11)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(12)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(13)[~~(14)~~] Subtitle 99 -- Penalties.

~~[The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.]~~

Section 49. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose ***duties***[~~duty~~] shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

   (a) Two (2) representatives of insurers currently offering health benefit plans in the state;

   (b) Two (2) practicing health care providers; and

   (c) Two (2) representatives of purchasers of health benefit plans.

(3) ***The council shall***[~~At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following~~]:

(a) ***Review and discuss*** the design of the standard health benefit ***plan***[~~plans pursuant to KRS 304.17A-160~~];

(b) ***Review and discuss*** the rate-filing process for all health benefit plans;

(c)[~~The definition of high-risk conditions;~~

~~(d)~~] ***Review and discuss*** the administrative regulations concerning this subtitle to be promulgated by the department;[~~ and~~]

(d)[~~(e)~~]***Make recommendations on uniform underwriting standards to be promulgated by the commissioner and on high cost conditions as provided in subsection (5) of this section; and***

(e) ***Review and discuss*** other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) ***No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions and the uniform underwriting standards established by the commissioner under Sections 1(20) and 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high cost conditions as required under this section[~~The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner~~].

Section 50. KRS 304.17A-145 is amended to read as follows:

(1) A health benefit plan[~~, as defined in KRS 304.17A-100,~~] issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health benefit plan if the health benefit plan authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of health benefit plans in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 51. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) [~~(a)~~]"Health benefit plan" ***has the meaning provided in Section 1 of this Act***[~~means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.~~

~~(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1,~~

~~1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160]~~.

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 52. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, or the schedule of fees or other periodic charges to be paid by enrollees, until a copy of the form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that the charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of sixty (60) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the sixty (60) day waiting period shall begin anew after the close of the hearing. Approval of the form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove the form by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of the period as so extended, and in the absence of the prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may at any time withdraw the approval.

(3) This section shall not apply to rate filings made under Subtitle 17A of this chapter.

Section 53. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;
2. Health care quality and outcomes;
3. Health care providers and health services;
4. Health insurance costs; and
5. The cost of health benefits covered by[~~ motor vehicle insurance and~~] workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) Appoint a permanent advisory committee to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published.

(3)[~~ All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:~~]

~~(a) Total premiums paid;~~

~~(b) Total cost of claims filed and paid;~~

~~(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;~~

~~(d) Total policies canceled by type and the aggregate reasons therefor;~~

~~(e) List of total health and medical services paid for, grouped by types of services and costs:~~

~~1. Total cost per health and medical service per insured group per month;~~

~~a. Cost paid by insurer;~~

~~b. Cost paid by insured; and~~

~~2. Percentage of insureds who received each service.~~

~~If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.~~

~~(4)~~] The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 54. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and

unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

- (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
- (b) Chiropractors licensed pursuant to KRS Chapter 312;
- (c) Dentists licensed pursuant to KRS Chapter 313;
- (d) Optometrists licensed pursuant to KRS Chapter 320;
- (e) Physician assistants regulated pursuant to KRS Chapter 311;
- (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
- (g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

- (a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;
- (b) Contracts with selected health care providers;
- (c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;
- (d) Controlled access to and coordination of services by a case manager; and
- (e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) ~~[(a) "Mandatory alliance member" means:~~

~~1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;~~

~~2. Elected and salaried employees of local school districts;~~

~~3. Employees of local and district health departments;~~

~~4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and~~

~~5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:~~

~~a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and~~

~~b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.~~

~~(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.~~

~~(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.~~

~~(18)~~]"Medical outcomes" means a change in an individual's health status after the provision of health services.

(18)[~~(19)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(19)[~~(20)~~] "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(20)[~~(21)~~] "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(21)[~~(22)~~] "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(22)[~~(23)~~] "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts***;***

(f) Any person for whom the Commonwealth provides health insurance under KRS 18A.225 to 18A.229; or

(g) Elected and salaried employees of local school districts; or

(h) Employees of local and district health departments; or

(i) Justice, judges, clerks, deputy clerk, and all other employees of the Judicial Department.

Section 55. KRS 304.12-085 is amended to read as follows:

(1) No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Chapter 344.

(2) In the case of benefits consisting of medical care provided under, offered by, or in connection with a group or individual health benefit plan, the plan or insurer may not deny, cancel, or refuse to renew the benefits or coverage, or vary the premiums, terms, or conditions for the benefits or coverage, for any participant or beneficiary under the plan:

(a) ***On the basis of a genetic test, for which symptoms have not manifested; or***

(b) ***On the basis that the participant or beneficiary has requested or received genetic services.***

(3) A group or individual health benefit plan or insurer offering health insurance in connection with a plan may not request or require a participant or beneficiary to disclose to the plan or insurer any genetic test about the participant, beneficiary, or applicant.

(4) A group or individual health benefit plan or insurer offering health insurance coverage may not disclose any genetic test about a participant or beneficiary without prior authorization by the participant. The authorization is required for each disclosure.

Section 56. KRS 304.38-080 is amended to read as follows:

(1) Each enrollee residing in this state shall be entitled to evidence of health care services provided and the same shall be issued and delivered to him by the health maintenance organization, be it in the form of a contract, certificate, or other comparable document. Such evidence shall state clearly the total amount of payment for health care services and any indemnity or service benefits which the enrollee is obligated to pay with respect to such health care services.

(2) Each health maintenance organization shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

[~~(3) After a health maintenance organization has been in operation for twenty-four (24) months, it shall have an open enrollment period at least every year under which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment, except as may be otherwise determined and authorized by the commissioner. Such organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unreasonable charges for enrollee coverage for health care service; which application the commissioner shall approve or deny within fifteen (15) days of the receipt thereof from such organization.~~]

Section 57. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;[~~ and~~]

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(j) Exclude for taxable years beginning after December 31, 1997, to the extent not already excluded from gross income, any amounts paid during the taxable year for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the

Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 58. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 59. Effective July 1, 1999, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.
304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.
304.17A-030 Duties of the Kentucky Health Purchasing Alliance.
304.17A-040 Conditions of participation in the alliance.
304.17A-050 Duties of the Department of Insurance with respect to the alliance.
304.17A-060 Supervision of alliance by department relative to antitrust laws.
304.17A-070 Creation of accountable health plans -- Certification.
304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.
304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.
304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.
304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

Section 60. To carry out the purposes of this Act, there is appropriated to the Kentucky Guaranteed Acceptance Program account out of the general fund in the State Treasury the sum of ten million dollars ($10,000,000) for fiscal year 1997-1998.

Section 61. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth, and premium rates have increased, which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 315** is as follows:

AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in Section 11 of this Act, with similar case characteristics for health benefit plans with the same or similar coverage.

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33).

(5) "COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or

(c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code;

9. A public health plan, as defined in regulations; or

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section.

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a), (b), and (c) in Section 6 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to the effective date of this Act, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group

health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

No employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics; or

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for calculating assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under Sections 15 to 23 of this Act;

(15) "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Does not hold a valid certificate of insurability;

(c) Is not eligible for or covered by other health benefit plan coverage;

(d) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition;

(e) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(f) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or reinsurer;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) "Health status" means an individual's mental and physical condition, using the following factors: medical condition, claims experience, medical history, and health service utilization;

(20) (a) " high-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with Section 14 of this Act, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, friedreich's ataxia, hemophilia, hodgkin's disease, huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and wilson's disease;

(21) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery

network; self-insured employer-organized association,; or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25) “Large group” means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members.

(26) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(27) “Market segment” means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(28) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(29) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(30) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(31) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(32) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(33) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(34) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(35) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(36) "Standard benefit plan" means the plan identified in Section 7 of this Act.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer that offers health benefit plan coverage for small groups shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health benefit plan and shall comply with the provisions of 42 U.S.C. secs. 300gg-1 and 300gg-11.

(2) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be issued on a guaranteed-issue basis to all full-time employees and shall comply with the pre-existing condition provisions of Section 4 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the *individual market on a guaranteed-issue basis as follows:*

(1) Except as provided in subsection (2) of this section, an individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(2) Except as provided in subsection (3) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:

(a) The standard health benefit plan; or

(b) The insurer's health benefit plan, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plan sold so that it qualifies as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate any health benefit plan made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plan so that it qualifies as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(3) If the insurer does not generally operate in the individual market and has elected under subsection (3)(a) of Section 17 of this Act to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.

(2) Subject to subsection (5) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:

(a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date;

(b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date; and

(c) The period of that pre-existing condition exclusion is reduced by the aggregate of the periods of creditable coverage, or applicable to the participant or beneficiary as of the enrollment date.

(3) For purposes of this section:

(a) 1. "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date; and

2. Genetic information shall not be treated as a condition described in subparagraph 1. of this paragraph in the absence of a diagnosis of the condition related to this information;

(b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment;

(c) "Late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or

2. A special enrollment period under subsection (7) of this section; and

(d) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

(4) (a) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a

group health plan, if, after the period and before the enrollment date, there was a sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(b) For purposes of paragraph (a) of this subsection and subsection (5)(d) of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period, as defined in subsection (8)(b) of this section, shall not be taken into account in determining the continuous period under paragraph (a) of this subsection.

(c) 1. Except as otherwise provided under paragraph (b) of this subsection, for purposes of applying subsection (2)(c) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

2. A group health plan, or a health insurance insurer offering group health insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under paragraph (a) of this subsection. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under paragraph (b) of this subsection, whether or not health insurance coverage is provided in connection with the plan, the plan shall:

a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and

b. Include in these statements a description of the effect of this election.

(d) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (6) of this section or in such other manner as may be specified in administrative regulations.

(5) (a) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of an individual who, as of the last day of the thirty (30) day period beginning with the date of birth, is covered under creditable coverage.

(b) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last day of the thirty (30) day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of the adoption or placement for adoption.

(c) A group health plan, and health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion relating to pregnancy as a pre-existing condition.

(d) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(6) (a) 1. A group health plan, and a health insurance insurer offering group health insurance coverage, shall provide the certification described in subparagraph 2. of this subsection:

a. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision;

b. In the case of an individual becoming covered under that provision, at the time the individual ceases to be covered under the provision; and

c. On request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The certification under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:

a. The period of creditable coverage of the individual under the plan and the coverage, if any, under the COBRA continuation provision; and

b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the *individual for any coverage under the plan.*

3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.

(b) In the case of an election described in subsection (4)(c)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:

1. Upon request of that plan or insurer, the entity that issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and

2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.

(7) (a) A group health plan, and a health insurance insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan, or a dependent of that employee if the dependent is eligible, but not enrolled, for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:

1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

2. The employee stated in writing at that time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required that statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;

3. The employee's or dependent's coverage described in subparagraph 1. of this paragraph:

a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or

b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

4. Under the terms of the plan, the employee requests the enrollment not later than thirty (30) days after the date of exhaustion of coverage described in subparagraph 3.a. of this paragraph or termination of coverage or employer contribution described in subparagraph 3.b. of this paragraph.

(b) 1. If:

a. A group health plan makes coverage available with respect to a dependent of an individual;

b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and

c. A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption;

the group health plan shall provide for a dependent special enrollment period described in subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.

2. A dependent special enrollment period under this subparagraph shall be a period of not less than thirty (30) days and shall begin on the later of:

a. The date dependent coverage is made available; or

b. The date of the marriage, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.

3. If an individual seeks to enroll a dependent during the first thirty (30) days of the dependent special enrollment period, the coverage of the dependent shall become effective:

a. In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

b. In the case of a dependent's birth, as of the date of the birth; or

c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

(8) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:

1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;

2. The period is applied uniformly without regard to any health status-related factors; and

3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.

(b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

2. This period shall begin on the enrollment date.

3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing conditions exclusions as to any eligible individual.

(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of Section 4 of this Act, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage. Pregnancy may be considered to be a pre-existing condition.

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with health benefit plan provisions;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer; or

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without

regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in Sections 2 and 3 of this Act. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of Section 18 of this Act for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition

exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under Sections 2, 3, 4, 5, and 6 of this Act.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for one (1) year, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a

policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act for approval to reenter Kentucky and engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 9. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers***, shall submit a copy of the filing to the Attorney General,*** and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in subsection (5) of this section~~].

(2) (a) ***A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing must be approved or diapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearings. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.***

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that it needs the additional time for consideration of the filing. At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.~~

~~(b) The commissioner may hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~

~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) ***The effect on the rates of any assessment made under Section 21 of this Act; and***

(g) Other factors as deemed relevant by the commissioner.

(4) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal***[~~Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing~~].

(5)[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase.~~

~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund ***or future premium credit*** to policyholders, enrollees, and subscribers if the commissioner determines that the ***rates or fees previously approved are in violation of this chapter***[~~benefits are no longer reasonable in relation to the premiums or fees charged~~].

(6) Each insurer paying a risk assessment under Section 21 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(7) The commissioner may by administrative regulation prescribe any additional information ***related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that*** it deems ***necessary and*** relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

- ***(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;***
- ***(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and***
- ***(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.***

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until the effective date of this Act for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after the effective date of this Act. The total increase shall not exceed a maximum of thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under Section 15 of this Act shall reimburse the insurer for any premium loss incurred

under this subsection to the extent that funds are available. For the purposes of this subparagraph, the premium loss incurred for each policy renewal period shall be determined as being the premium necessary to provide for the excess claims costs of the high-risk individuals. The excess claims costs equals the excess of the average claims costs for high-risk individuals, less the average claims cost of all other individuals with health benefit plans issued during the period from July 15, 1995, until the effective date of this Act, multiplied by the number of high-risk individuals;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after the effective date of this Act; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after the effective date of this Act and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995 and the effective date of this Act to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in Section 1 of this Act;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in Section 1 of this Act.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period may not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, health status, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network result in measurable differences in claims costs.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after the effective date of this Act. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than June 30, 1999, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on July 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 until the end of the contract or policy period. The provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 shall become null and void on July 1, 1999.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health insurer.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may, by administrative regulation, add to the list of high-cost conditions provided in Section 1 of this Act other high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 15 to 23 of this Act shall be referred to as the Kentucky Guaranteed Acceptance Program.

(2) The Kentucky Guaranteed Acceptance Program is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(3) Payment to providers of services under program plans shall not be discriminatory. Guaranteed acceptance program insurers shall reimburse providers at rates that are no less favorable than the rates paid to the comparable providers for services delivered to enrollees who do not have a high-cost condition.

(4) All insurers, reinsurers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Acceptance Program either as a guaranteed acceptance program supporting insurer or a guaranteed acceptance program participating insurer.

(a) A guaranteed acceptance program insurer participates in the program by both issuing guaranteed acceptance program plans to guaranteed acceptance program qualified individuals in accordance with the provisions of this subtitle and by being subject to assessments and payments through the risk assessment process.

(b) A guaranteed acceptance program supporting insurer participates in the program only by being subject to assessments and payments through the program risk assessment process.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 15 to 23 of this Act, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses, reserves, or other overhead costs;

(3) "First issuance" means the date a person first became eligible for benefits under a health benefit plan;

(4) "Guaranteed acceptance program plan claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan;

(5) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(6) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program plan losses provided for in Section 21 of this Act;

(7) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(8) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(9) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers;

(10) "Other coverage" means coverage under any of the following:

(a) A group plan;

(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c et seq.;

(c) A state plan under Title XIX of the Social Security Act, or any successor program;

(d) Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(d) or under a similar program under any state law; or

(e) Any other health insurance coverage which is not individual health insurance coverage;

(11) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(12) "Program" means the Kentucky Guaranteed Acceptance Program;

(13) "Refund" means an amount to be paid to an insurer by the program;

(14) "Reinsurer" means any person providing health insurance stop-loss coverage;

(15) "Reinsurance premiums" means amounts paid to reinsurers to purchase health insurance stop-loss coverage; and

(16) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of all insurers participating in the program.

SECTION 17. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer issuing health benefit plans in Kentucky and that had a market share of twenty-five percent (25%) or more for any fiscal year ending June 30 shall be a program participating insurer for the following fiscal year.

(2) On or before July 1, 1998, each insurer issuing health benefit plans in Kentucky, other than the insurers required by subsection (1) of this section to be a program participating insurer, shall advise the commissioner in writing whether it will participate in the program as a program participating insurer or a program supporting insurer. After July 1, 1998, no insurer shall issue health benefit plans in Kentucky without first advising the commissioner in writing that it will participate in the program as a program participating insurer or a program supporting insurer. Any insurer issuing health benefit plans in Kentucky that fails to advise the commissioner of the nature of its participation in the program shall be deemed a program supporting insurer unless it is required by subsection (1) of this section to be a program participating insurer.

(3) An insurer who elects to be a program participating insurer may elect to participate under the following conditions:

(a) Network-based insurers may limit coverage to the benefit plans offered to persons residing in the geographic area covered by the providers network; and

(b) A group insurer may elect to be a program participating insurer without otherwise operating in the individual market.

(4) The department shall publicize a monthly list of program participating insurers.

(5) The provisions of Sections 15 to 23 of this Act shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, or CHAMPUS insureds.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

(a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

(b) An individual entitled to benefits under the health benefit plan either within the previous three (3) years has been diagnosed with or treated for a high-cost condition for which benefits are payable under the health benefit plan and the insurer is aware of the diagnosis or treatment or has had benefits paid under the health benefit plan for a high-cost condition;

(c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under Section 2 of this Act;

(d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other that program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For a health benefit plan that is a program plan at the time of first issuance, an insurer may charge an annual premium of up to one hundred fifty percent (150%) of the index rate charged to a person of identical or similar case characteristics but assuming no individual entitled to benefits under the health benefit plan had been diagnosed or treated with a high-cost condition for which benefits are payable under the policy.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter, program plans may contain cost containment features, including managed care and utilization management, to control the amount of high-cost policy losses without creating excessive adverse health care outcomes.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each fiscal year that the program is operating, every insurer will report to the department, in a form and at the time as the department by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of program plans in force as of December 31;

(c) The amount of the insurer's program plan premiums received during the fiscal year covered by the report;

(d) The amount of the insurer's program plan claims paid during the fiscal year covered by the report;

(e) The amount of the insurer's program plan losses; and

(f) Other information as the department may, by administrative regulation, require to be reported to operate the program.

(2) At the end of each fiscal year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of program plan premiums for all reporting insurers;

(c) The total amount of program plan claims paid by all reporting insurers;

(d) The amount of total actual program plan losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within forty-five (45) days after the reporting deadline.

(3) The department may prepare quarterly estimated calculations for the purposes of allowing insurers who participate in the program to budget for their annual assessments and refunds.

(4) The department may conduct such examinations of insurers participating in the plan as is reasonably necessary to determine if the information provided by the insurers is accurate. At the request of the department, the department shall conduct the examinations.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a risk adjustment process to be used in collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of allocating program plan losses among such insurers.

(2) As part of the risk adjustment process, the department shall establish and maintain a program account. All funds in the program account shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the state accounting and reporting system (STARS) and its successors.

(3) The program account shall be funded from the following sources:

(a) Appropriations from the General Assembly;

(b) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(c) Annual assessments from each reinsurer in an amount which is equal to two dollars ($2) upon each one hundred dollars ($100) of reinsurance premiums;

(d) An assessment for each fiscal year on the total amount of all health benefit plan premiums written during the prior fiscal year and paid by all insurers who received any of the health benefit plan premiums on which the assessment is based. The first assessment shall be for the fiscal year of July 1, 1998, to June 30, 1999, shall be based on the amount of health benefit plan premiums written during the fiscal year ended June 30, 1998, and the total amount of the assessment against all insurers shall equal seven million eight hundred thousand dollars ($7,800,000). The percentage rate used to determine the 1998-1999 assessment shall be the maximum percentage that may be used to determine the assessment in any subsequent fiscal year. Assessments in any subsequent fiscal year shall be paid on or before the last day of the fiscal year, and the first assessment shall be paid on or before June 30, 1999;

(e) Any special assessments under subsection 4(b) of this section;

(f) Gifts, grants, or other voluntary contributions; and

(g) Interest or other earnings on the investment of the monies held in the account.

(4) After the end of each fiscal year, the department shall calculate the amount of the total actual program plan losses incurred by all insurers for the fiscal year. The first calculation shall be for the fiscal year ended June 30, 1999.

(a) If the amount of total actual program plan losses is less than the amount in the program account, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account.

(b) If the amount of total actual program plan losses is more than the amount in the program account, then the difference shall be considered a program account deficit, and there shall be a second assessment, in addition to the assessment under subsection 3(d) of this section, on all insurers who received any of the health benefit plan premiums on which the assessment under subsection 3(d) is based. The second assessment shall also be a percentage of the health benefit plan premiums except for the following limitations:

1. The percentage rate may not exceed the percentage rate used to determine the 1998-1999 assessment, and

2. The total amount generated from the additional assessment may not exceed the lesser of the program account deficit or seven million eight hundred thousand dollars ($7,800,000). If the second assessment fully eliminates the program account deficit, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account. If the second assessment does not fully eliminate the program account deficit, each insurer shall be reimbursed up to its proportional share of program plan losses from the program account in the same proportion that the insurer's program plan losses bears to the total program plan losses of all insurers.

(5) With respect to an insurer who reasonably will be expected to both pay assessments and receive payments from the program account, the department shall calculate the net amount owed to or to be received from the program account, and the department shall only collect assessment or make payments from the program account based upon net amounts.

(6) Insurers paying an assessment may include in any health insurance rate filing that amount of such assessments as provided in Section 21 of this Act.

(7) Any surpluses remaining in the program account after completion of the risk adjustment process for a fiscal year

shall be maintained for use in the risk adjustment process for future fiscal years and such funds shall not lapse. The General Fund appropriations to the program account shall not lapse.

(8) Assessments on health benefit plan premiums that are required under this section shall not be applied to premiums received by an insurer for Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds..

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the regular session of the General Assembly in the year 2000, sixty (60) days prior to that session and each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the operations of the program. The report shall contain an evaluation of the program, an evaluation of issues concerning individuals with high-cost conditions, and recommendations for establishing alternative means of providing health benefit plans for those individuals in addition to, or as an alternative to, the risk adjustment mechanism of the program. In order to determine the effectiveness of the program in providing access and affordable insurance to individuals with high-cost conditions and in readjusting the risks of providing health benefit plans to such individuals, the department shall determine:

- *(a) The number of individuals with high-cost conditions;*
- *(b) The number of program plans; and*
- *(c) The reasons that any program plans are terminated.*

(2) Beginning no later than June 30, 1999, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the program, and the costs of the audit shall be born by the department. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the department.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Coverage of an individual who is not a state employee or a small group which on the effective date of this Act is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after the effective date of this Act.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 25 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

- *(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:*
  - *1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;*
  - *2. Serious impairment to bodily functions; or*
  - *3. Serious dysfunction of any bodily organ or part; or*
- *(b) With respect to a pregnant woman who is having contractions:*
  - *1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or*
  - *2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;*

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(6) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(7) "Insurer" has the meaning provided in Section 1 of this Act;

(8) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(9) "Participating health care provider" means a health care provider that has entered into an agreement with an

insurer to provide health care services to an enrollee in its managed care plan;

(10) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(11) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(12) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and

(j) Other information as the commissioner shall require by administrative regulation.

(2) The insurer shall file the information required under this section with the department.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 26 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital *affiliations, and other information specified in this subsection, upon request.*

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-

expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the provider's approval.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer that limits coverage for any treatment, procedure, drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, drug or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

3. A description of other alternative treatment, services, or supplies covered by the plan, if any; and

4. Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, procedure, drug, or device is involved;

2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;

3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and

4. Twenty (20) working days of the initiation of the review process in all other instances.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a

specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of the effective date of this Act.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information concerning the patient from a patient's record as is necessary for determining covered services and benefits, medical necessity,

appropriateness, and quality of care for authorization or continuation of mental health and chemical dependency health services to be provided to the patient, or for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific written consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 25 to 39 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 25 to 39 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the date ninety (90) days after the effective date of this Act, unless it and the insurer meet the requirements of Sections 25 to 39 of this Act.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

  (a) All assessments placed on insurers under Section 21 of this Act;

  (b) All rating restrictions placed on employer-organized associations under Section 11 of this Act;

  (c) All rate review requirements placed on insurers under this subtitle;

  (d) All data collection requirements placed on insurers under this subtitle; and

  (e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

SECTION 41. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by March 30 to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

  (a) Total cost per health and medical service per insured group per month:

1. Cost paid by insurer;

2. Cost paid by insured; and

(b) Percentage of insured who received each service.

SECTION 42. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical care, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

SECTION 43. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is created within the department a consumer protection and education division, which shall include an office of ombudsman.

Section 44. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer~~[as defined in KRS 304.17A-100]~~, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

(a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

(c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) *It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.*

(4) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 21 of this Act. As an alternative, the commissioner may levy a forfeiture on any member insurer that fails to pay the assessment when due. The forfeiture shall not exceed five percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(5) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 45. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this code.

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

(c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

(d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

(e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 46. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.[

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

~~(a) Was in existence on January 30, 1996;~~

~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~

~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~

~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~

~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed-issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~]If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 47. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***any rates filed under Subtitle 17A of this chapter,***[~~standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such

sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 48. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;

(2) Subtitle 2 -- Insurance Commissioner;

(3) Subtitle 3 -- Authorization of Insurers and General Requirements;

(4) Subtitle 4 -- Fees and Taxes;

(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;

(6) Subtitle 7 -- Investments;

(7) Subtitle 12 -- Trade Practices and Frauds;

(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;

(9) Subtitle 17A -- Health Benefit Plans;

(10)[~~ Subtitle 18 -- KRS 304.18-050;~~

~~(11)~~] Subtitle 25 -- Continuity of Management;

(11)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(12)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(13)[~~(14)~~] Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

Section 49. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose ***duties***[~~duty~~] shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

  (a) Two (2) representatives of insurers currently offering health benefit plans in the state;

  (b) Two (2) practicing health care providers; and

  (c) Two (2) representatives of purchasers of health benefit plans.

(3) ***The council shall***[~~At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following~~]:

  (a) ***Review and discuss*** the design of the standard health benefit ***plan***[~~plans pursuant to KRS 304.17A-160~~];

  (b) ***Review and discuss*** the rate-filing process for all health benefit plans;

  (c)[~~ The definition of high-risk conditions;~~

  ~~(d)~~] ***Review and discuss*** the administrative regulations concerning this subtitle to be promulgated by the department;[~~ and~~]

(d)[~~(e)~~]***Make recommendations on uniform underwriting standards to be promulgated by the commissioner and on high-cost conditions as provided in subsection (5) of this section; and***

(e) ***Review and discuss*** other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) ***No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions and the uniform underwriting standards established by the commissioner under Sections 1(20) and 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section[~~The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner~~].

Section 50. KRS 304.17A-145 is amended to read as follows:

(1) A health benefit plan[~~, as defined in KRS 304.17A-100,~~] issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health benefit plan if the health benefit plan authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of health benefit plans in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 51. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) [~~(a)~~]"Health benefit plan" ***has the meaning provided in Section 1 of this Act***[~~means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.~~

~~(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160~~].

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 52. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, or the schedule of fees or other periodic charges to be paid by enrollees, until a copy of the form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that the charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of sixty (60) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the sixty (60) day waiting period shall begin anew after the close of the hearing. Approval of the form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove the form by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of the period as so extended, and in the absence of the prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may at any time withdraw the approval.

(3) This section shall not apply to rate filings made under Subtitle 17A of this chapter.

Section 53. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;
2. Health care quality and outcomes;
3. Health care providers and health services;
4. Health insurance costs; and
5. The cost of health benefits covered by[~~ motor vehicle insurance and~~] workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) Appoint a permanent advisory committee to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published.

(3)[~~All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:~~

~~(a) Total premiums paid;~~

~~(b) Total cost of claims filed and paid;~~

~~(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;~~

~~(d) Total policies canceled by type and the aggregate reasons therefor;~~

~~(e) List of total health and medical services paid for, grouped by types of services and costs:~~

~~1. Total cost per health and medical service per insured group per month;~~
  ~~a. Cost paid by insurer;~~
  ~~b. Cost paid by insured; and~~
~~2. Percentage of insureds who received each service.~~

~~If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.~~

~~(4)~~] The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 54. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

- (a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;
- (b) Chiropractors licensed pursuant to KRS Chapter 312;
- (c) Dentists licensed pursuant to KRS Chapter 313;
- (d) Optometrists licensed pursuant to KRS Chapter 320;
- (e) Physician assistants regulated pursuant to KRS Chapter 311;
- (f) Nurse practitioners licensed pursuant to KRS Chapter 314; and
- (g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

- (a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;
- (b) Contracts with selected health care providers;
- (c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;
- (d) Controlled access to and coordination of services by a case manager; and
- (e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) [~~(a) "Mandatory alliance member" means:~~

- ~~1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;~~
- ~~2. Elected and salaried employees of local school districts;~~
- ~~3. Employees of local and district health departments;~~
- ~~4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and~~
- ~~5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:~~

~~a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and~~

~~b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.~~

~~(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.~~

~~(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.~~

~~(18)~~]"Medical outcomes" means a change in an individual's health status after the provision of health services.

(18)[~~(19)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(19)[~~(20)~~] "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(20)[~~(21)~~] "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(21)[~~(22)~~] "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(22)[~~(23)~~] "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts***;***

(f) Any person for whom the Commonwealth provides health insurance under KRS 18A.225 to 18A.229; or

(g) Elected and salaried employees of local school districts; or

(h) Employees of local and district health departments; or

(i) Justice, judges, clerks, deputy clerk, and all other employees of the Judicial Department.

Section 55. KRS 304.12-085 is amended to read as follows:

(1) No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Chapter 344.

(2) In the case of benefits consisting of medical care provided under, offered by, or in connection with a group or individual health benefit plan, the plan or insurer may not deny, cancel, or refuse to renew the benefits or coverage, or vary the premiums, terms, or conditions for the benefits or coverage, for any participant or beneficiary under the plan:

(a) On the basis of a genetic test, for which symptoms have not manifested; or

(b) On the basis that the participant or beneficiary has requested or received genetic services.

(3) A group or individual health benefit plan or insurer offering health insurance in connection with a health benefit plan may not request or require a participant or beneficiary to disclose to the plan or insurer any genetic test about the participant, beneficiary, or applicant.

(4) A group or individual health benefit plan or insurer offering health insurance in connection with a health benefit plan may not disclose any genetic test about a participant or beneficiary without prior authorization by the participant. The authorization is required for each disclosure.

(5) For purposes of this section, unless the context requires otherwise:

(a) "Health benefit plan" has the meaning given it in Section 1 of this Act; and

(b) "Insurer" has the meaning given it in Section 1 of this Act.

Section 56. KRS 304.38-080 is amended to read as follows:

(1) Each enrollee residing in this state shall be entitled to evidence of health care services provided and the same shall be issued and delivered to him by the health maintenance organization, be it in the form of a contract, certificate, or other comparable document. Such evidence shall state clearly the total amount of payment for health care services and any indemnity or service benefits which the enrollee is obligated to pay with respect to such health care services.

(2) Each health maintenance organization shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

[~~(3) After a health maintenance organization has been in operation for twenty-four (24) months, it shall have an open enrollment period at least every year under which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment, except as may be otherwise determined and authorized by the commissioner. Such organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unreasonable charges for enrollee coverage for health care service; which application the commissioner shall approve or deny within fifteen (15) days of the receipt thereof from such organization.~~]

Section 57. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;~~[and]~~

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(j) Exclude for taxable years beginning after December 31, 1997, to the extent not already excluded from gross income, any amounts paid during the taxable year for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but

maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 58. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 59. Effective July 1, 1999, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

Section 60. To carry out the purposes of this Act, there is appropriated to the Kentucky Guaranteed Acceptance Program account out of the general fund in the State Treasury the sum of ten million dollars ($10,000,000) for fiscal year 1997-1998.

Section 61. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth, and premium rates have increased, which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Agriculture and Small Business reported **HB 31**, with Committee Substitute attached thereto, **HB 45**, **HB 119**, with Committee Substitute attached thereto, **HB 122**, with Committee Substitute attached thereto, **HB 212**, with Committee Substitute attached thereto, **HB 231**, and **HCR 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 31, AN ACT relating to animal euthanasia.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 321.181 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Veterinary Examiners;

(2) "Animal" means any animal, except human beings;

(3) "Compensation" includes any gift, bonus, fee, money, credit, or other thing of value;

(4) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the Commonwealth of Kentucky;

(5) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent: animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above;

(b) To engage in veterinary surgery, obstetrics, embryo transfer, dentistry, acupuncture, manipulation, and all other branches or specialties of veterinary medicine and the prescribing, administering, or dispensing of drugs and medications for veterinary purposes, in accordance with the applicable federal statutes and regulations governing controlled prescription and legend drugs; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraphs (a) and (b) of this subsection.

(6) "Embryo transfer" means to remove any embryo from any animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into any animal, including food and companion animals;

(7) "Chemical restraint" means the use of any prescription or legend drug that restrains or tranquilizes the animal;

(8) "Direct supervision" means the veterinarian is on the premises, and is quickly and easily available, and the animal has been examined by a veterinarian at the times acceptable veterinary medical practice requires, consistent with the particular delegated animal health care tasks;

(9) "Indirect supervision" means the veterinarian does not have to be on the premises as long as a valid veterinary/client/patient relationship has been established and the veterinary technologist, veterinary technician, or veterinary assistant has been instructed on the applicable animal health care tasks in accordance with KRS 321.441 and 321.443.

(10) "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life;

(11) "Impaired veterinarian program" means the Kentucky Veterinary Medical Association sponsored program for the identification, intervention, and monitoring of veterinarians impaired as a result of alcoholism, chemical dependence, or drug abuse;

(12) "Veterinary medical impairment committee" means a committee of the Kentucky Veterinary Medical Association, comprised of individuals who have expertise in the areas of alcoholism, chemical dependence, drug abuse, or physical or mental illness, that has been designated by the Kentucky Veterinary Medical Association to perform activities related to the impaired veterinarian program.

(13) "Veterinary technologist" means a person who has successfully completed an accredited program of veterinary technology approved by the board and who is registered in accordance with KRS 321.441;

(14) "Veterinary technician" means a person who has an associate degree related to veterinary sciences, or its equivalent as approved by the board, and who is registered in accordance with KRS 321.441;

(15) "Veterinary assistant" means a lay person employed by a licensed veterinarian in accordance with KRS 321.443.

(16) "Certified animal control agency" means a county or municipal animal shelter, dog pound, or animal control agency; private humane society; state, county, or municipal law enforcement agency; or any combination thereof that temporarily houses stray, unwanted, or injured animals and that is certified under the provisions of Section 2 of this Act.

(17) "Certified animal euthanasia technician" means a person employed by a certified animal control agency who is authorized by the board, under Section 2 of this Act, to humanely euthanize animals by administering drugs designated by the board for euthanasia.

SECTION 2. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The Board of Veterinary Examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any animal control agency that it determines to be qualified, a certificate authorizing the agency to apply to the federal Drug Enforcement Agency, including any successor entity, for a restricted controlled substance registration certificate for the purchase, possession, and use of sodium pentobarbital or other drugs as authorized by the board for administration by a certified animal euthanasia technician to euthanize injured, sick, or abandoned animals.

(2) The Board of Veterinary Examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any person who it determines to be qualified, a certificate for the person to function as a certified animal euthanasia technician.

(3) Euthanasia of animals in a certified animal control agency shall be performed by a licensed veterinarian, including

a registered veterinary technician or technologist employed by and functioning under the direct supervision of a licensed veterinarian, or a certified animal euthanasia technician as provided for in subsection (2) of this section. A certified animal control agency that employs a certified animal euthanasia technician may purchase, possess, and administer sodium pentobarbital or other drugs that the board approves for the euthanasia of animals. Sodium pentobarbital and other drugs approved by the board shall be the only drugs used for the euthanasia of animals in a certified animal control agency.

(4) Certified animal control agencies and certified animal euthanasia technicians shall be required to renew their certificates at intervals, upon conditions, and upon the payment of fees established by the board.

Section 3. KRS 321.235 is amended to read as follows:

(1) The board shall administer and enforce the provisions of this chapter and shall have the responsibility of evaluating the qualifications of applicants for licensure ***and certification***.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter.

(3) The board may promulgate administrative regulations pursuant to Chapter 13A and this chapter to carry out the provisions of this chapter.

(4) The board may conduct hearings and keep records and minutes necessary to carry out the function of this chapter.

(5) The board may evaluate the qualifications and authorize the issuance of licenses***,***[~~ or~~] registration***, or certification*** to qualified candidates.

(6) The board may renew licenses***,***[~~ and~~] registrations***, and certifications*** and require continuing education as a condition for renewal.

(7) The board may suspend, or revoke licenses ***or certifications***, or impose supervisory or probationary conditions upon licensees ***or certificate holders***, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of veterinary medicine by unlicensed persons.

Section 4. KRS 321.990 is amended to read as follows:

Any person who shall violate or aid in the violation of any of the provisions of KRS 321.175, 321.181, 321.185, 321.190, 321.193, 321.195, 321.200, 321.201, 321.205, 321.211, 321.221, 321.230, 321.235, 321.237, 321.240, 321.320, 321.351, 321.360, 321.441***,***[~~ and~~] 321.443***, and Section 2 of this Act*** shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.

The Committee Substitute to **HB 31** is as follows:

AN ACT relating to animal euthanasia.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 321.181 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Veterinary Examiners;

(2) "Animal" means any animal, except human beings;

(3) "Compensation" includes any gift, bonus, fee, money, credit, or other thing of value;

(4) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the Commonwealth of Kentucky;

(5) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent: animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above;

(b) To engage in veterinary surgery, obstetrics, embryo transfer, dentistry, acupuncture, manipulation, and all other branches or specialties of veterinary medicine and the prescribing, administering, or dispensing of drugs and medications for veterinary purposes, in accordance with the applicable federal statutes and regulations governing controlled prescription and legend drugs; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraphs (a) and (b) of this subsection.

(6) "Embryo transfer" means to remove any embryo from any animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into any animal, including food and companion animals;

(7) "Chemical restraint" means the use of any prescription or legend drug that restrains or tranquilizes the animal;

(8) "Direct supervision" means the veterinarian is on the premises, and is quickly and easily available, and the animal has been examined by a veterinarian at the times acceptable veterinary medical practice requires, consistent with the particular delegated animal health care tasks;

(9) "Indirect supervision" means the veterinarian does not have to be on the premises as long as a valid veterinary/client/patient relationship has been established and the veterinary technologist, veterinary technician, or veterinary assistant has been instructed on the applicable animal health care tasks in accordance with KRS 321.441 and 321.443.

(10) "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life;

(11) "Impaired veterinarian program" means the Kentucky Veterinary Medical Association sponsored program for the identification, intervention, and monitoring of veterinarians impaired as a result of alcoholism, chemical dependence, or drug abuse;

(12) "Veterinary medical impairment committee" means a committee of the Kentucky Veterinary Medical Association, comprised of individuals who have expertise in the areas of alcoholism, chemical dependence, drug abuse, or physical or mental illness, that has been designated by the Kentucky Veterinary Medical Association to perform activities related to the impaired veterinarian program.

(13) "Veterinary technologist" means a person who has successfully completed an accredited program of veterinary technology approved by the board and who is registered in accordance with KRS 321.441;

(14) "Veterinary technician" means a person who has an associate degree related to veterinary sciences, or its equivalent as approved by the board, and who is registered in accordance with KRS 321.441;

(15) "Veterinary assistant" means a lay person employed by a licensed veterinarian in accordance with KRS 321.443.

(16) "Certified animal control agency" means a county or municipal animal shelter, dog pound, or animal control agency; private humane society; state, county, or municipal law enforcement agency; or any combination thereof that temporarily houses stray, unwanted, or injured animals and that is certified under the provisions of Section 2 of this Act.

(17) "Certified animal euthanasia technician" means a person employed by a certified animal control agency who is authorized by the board, under Section 2 of this Act, to humanely euthanize animals by administering drugs designated by the board for euthanasia.

SECTION 2. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The Board of Veterinary Examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any animal control agency that it determines to be qualified, a certificate authorizing the agency to apply to the federal Drug Enforcement Agency, including any successor entity, for a restricted controlled substance registration certificate for the purchase, possession, and use of sodium pentobarbital or other drugs as authorized by the board for administration by a certified animal euthanasia technician to euthanize injured, sick, or abandoned animals.

(2) Upon submission of a complete application, payment of a fee established by the board, and successful completion of a board-approved animal euthanasia technician training course by the applicant, the Board of Veterinary Examiners shall issue to any person whom it determines to be qualified, a certificate for the person to function as a certified animal euthanasia technician.

(3) Euthanasia of animals in a certified animal control agency shall be performed by a licensed veterinarian, including a registered veterinary technician or technologist employed by and functioning under the direct supervision of a licensed veterinarian, or a certified animal euthanasia technician as provided for in subsection (2) of this section. A certified animal control agency that employs a certified animal euthanasia technician may purchase, possess, and administer sodium pentobarbital or other drugs that the board approves for the euthanasia of animals. Sodium pentobarbital and other drugs approved by the board shall be the only drugs used for the euthanasia of animals in a certified animal control agency.

(4) Certified animal control agencies and certified animal euthanasia technicians shall be required to renew their certificates at intervals, upon conditions, and upon the payment of fees established by the board.

Section 3. KRS 321.235 is amended to read as follows:

(1) The board shall administer and enforce the provisions of this chapter and shall have the responsibility of evaluating the

qualifications of applicants for licensure ***and certification***.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter.

(3) The board may promulgate administrative regulations pursuant to Chapter 13A and this chapter to carry out the provisions of this chapter.

(4) The board may conduct hearings and keep records and minutes necessary to carry out the function of this chapter.

(5) The board may evaluate the qualifications and authorize the issuance of licenses***,***~~[or]~~ registration***, or certification*** to qualified candidates.

(6) The board may renew licenses***,***~~[and]~~ registrations***, and certifications*** and require continuing education as a condition for renewal.

(7) The board may suspend, or revoke licenses ***or certifications***, or impose supervisory or probationary conditions upon licensees ***or certificate holders***, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of veterinary medicine by unlicensed persons.

Section 4. KRS 321.990 is amended to read as follows:

Any person who shall violate or aid in the violation of any of the provisions of KRS 321.175, 321.181, 321.185, 321.190, 321.193, 321.195, 321.200, 321.201, 321.205, 321.211, 321.221, 321.230, 321.235, 321.237, 321.240, 321.320, 321.351, 321.360, 321.441***,***~~[and]~~ 321.443***, and Section 2 of this Act*** shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.

HB 45, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding

livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. The exemption provided in this subsection shall be effective for sales made through July 31, 2000;~~[and]~~

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The exemption provided in this subsection shall be effective for sales made through July 31, 2000***; and***

(27) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

Section 2. This Act takes effect August 1, 1998.

HB 119, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. The exemption provided in this subsection shall be effective for sales made through July 31, 2000;[~~and~~]

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The exemption provided in this subsection shall be effective for sales made through July 31, 2000***; and***

(27) Animal health care products used to treat, correct, change, relieve, or prevent disease, deformity, defect, injury, or other physical condition of:

(a) Livestock and poultry of a kind the products of which ordinarily constitute food for human consumption; and

(b) Ratite birds, llamas, and alpacas.

Section 2. The amendment in Section 1 of this Act shall apply to sales of animal health care products sold on or after August 1, 1998.

The Committee Substitute to **HB 119** is as follows:

AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a

business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. The exemption provided in this subsection shall be effective for sales made through July 31, 2000;~~[and]~~

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The exemption provided in this subsection shall be effective for sales made through July 31, 2000***; and***

(27) Animal health care products, if the sale is made directly to a person regularly engaged in farming as a business and the products are used to treat, correct, change, relieve, or prevent disease, deformity, defect, injury, or other physical condition of:

(a) Livestock and poultry of a kind the products of which ordinarily constitute food for human consumption; and

(b) Ratite birds, llamas, buffalo, aquatic organisms, and alpacas.

Section 2. The amendment in Section 1 of this Act shall apply to sales of animal health care products sold on or after August 1, 1998.

HB 122, AN ACT relating to aquaculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

- (a) "Gasoline" is defined as in KRS 138.210(4);
- (b) "Special fuels" is defined as in KRS 138.560(3);
- (c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and
- (d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. The exemption provided in this subsection shall be effective for sales made through July 31, 2000;~~[and]~~

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The exemption provided in this subsection shall be effective for sales made through July 31, 2000***; and***~~[.]~~

(27) Products of aquaculture, as defined in Section 2 of this Act, and the following items used in the production of aquacultural products:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, fuel, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

Section 2. KRS 260.960 is amended to read as follows:

(1) The General Assembly recognizes the importance of ***aquaculture***~~[fish farming]~~ to the agricultural economy of the state.

(2) "***Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions***~~[Farm-raised fish" means native or exotic fish species spawned or raised under controlled conditions in private waters for commercial purposes]~~.

(3) The State Department of Agriculture shall promote the development of markets for ***aquacultural products***~~[farm-raised fish]~~. The department shall work cooperatively with Kentucky State University's aquaculture program utilizing its expertise in the area of ***aquaculture***~~[fish farming]~~. The department also shall work cooperatively with other state agencies in assisting ***aquacultural producers***~~[fish farmers]~~ to obtain the necessary permits.

~~[(4) This section shall not affect the powers of the Fish and Wildlife Resources Commission or the Department of Fish and Wildlife Resources as contained in KRS Chapter 150.]~~

Section 3. This Act takes effect August 1, 1998.

The Committee Substitute to **HB 122** is as follows:

AN ACT relating to aquaculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

(16) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

   (a) "Gasoline" is defined as in KRS 138.210(4);

   (b) "Special fuels" is defined as in KRS 138.560(3);

   (c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

   (d) "Agricultural purposes" is defined as in KRS 138.343(4);

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials"

means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming. The exemption provided in this subsection shall be effective for sales made through July 31, 2000;[~~and~~]

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The exemption provided in this subsection shall be effective for sales made through July 31, 2000***; and***[~~.~~]

(27) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in Section 2 of this Act, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and

replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

Section 2. KRS 260.960 is amended to read as follows:

(1) The General Assembly recognizes the importance of ***aquaculture***[~~fish farming~~] to the agricultural economy of the state.

(2) ***"Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions***[~~Farm-raised fish" means native or exotic fish species spawned or raised under controlled conditions in private waters for commercial purposes~~].

(3) The State Department of Agriculture shall promote the development of markets for ***aquacultural products***[~~farm-raised fish~~]. The department shall work cooperatively with Kentucky State University's aquaculture program utilizing its expertise in the area of ***aquaculture***[~~fish farming~~]. The department also shall work cooperatively with other state agencies in assisting ***aquacultural producers***[~~fish farmers~~] to obtain the necessary permits.

[~~(4) This section shall not affect the powers of the Fish and Wildlife Resources Commission or the Department of Fish and Wildlife Resources as contained in KRS Chapter 150.~~]

Section 3. This Act takes effect August 1, 1998.

HB 212, AN ACT relating to small business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-510 is amended to read as follows:

(1) There is hereby established the Small Business Stationary Source Compliance Advisory Panel, referred to hereafter as "the panel," to determine the overall effectiveness of Kentucky's Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The panel shall be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes.

(2) The ***eleven (11)***[~~nine (9)~~] member panel shall be appointed[~~ to four (4) year terms~~] as follows:

(a) Two (2) members, who are not owners, or representatives of owners, of small business stationary sources, shall be selected by the Governor to represent the general public;

(b) ***Two (2) members, who are owners, or representatives of owners, of small business stationary sources, shall be selected by the Governor to represent small business stationary sources;***

(c) Two (2) members shall be selected by the secretary of the Natural Resources and Environmental Protection Cabinet to represent that agency;

(d)[~~(c)~~]One (1) member shall be selected by the secretary of the Cabinet for Economic Development; and

(e)[~~(d)~~]Four (4) members who are owners, or representatives of owners of small business stationary sources, shall be selected by the Kentucky General Assembly as follows:

1. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the Senate, and
2. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the House of Representatives.

(3) ***Members who were appointed before the effective date of this Act shall continue in office until October 30, 1998. The Governor shall then designate the members who have been appointed in accordance with subsection (2) of this section to serve initial terms as follows:***

(a) Three (3) members shall serve in office for four (4) years;

(b) Three (3) members shall serve in office for three (3) years;

(c) Three (3) members shall serve in office for two (2) years; and

(d) Two (2) members shall serve in office for one (1) year.

When those initial terms expire, members shall serve in office for four (4) year terms.

(4) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(5)[~~(4)~~] Members of the panel shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with Kentucky statutes and administrative regulations while performing official duties.

(6)[~~(5)~~] The panel shall select one (1) of its members as chair and another as vice chair.

(7)[~~(6)~~] Staff services for the panel shall be performed, insofar as practicable, by personnel of the cabinet.

The Committee Substitute to **HB 212** is as follows:

AN ACT relating to small business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-510 is amended to read as follows:

(1) There is hereby established the Small Business Stationary Source Compliance Advisory Panel, referred to hereafter as "the panel," to determine the overall effectiveness of Kentucky's Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The panel shall be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes.

(2) The ***eleven (11)***[~~nine (9)~~] member panel shall be appointed[~~ to four (4) year terms~~] as follows:

- (a) Two (2) members, who are not owners, or representatives of owners, of small business stationary sources, shall be selected by the Governor to represent the general public;
- (b) ***Two (2) members, who are owners, or representatives of owners, of small business stationary sources, shall be selected by the Governor to represent small business stationary sources;***
- ***(c)*** Two (2) members shall be selected by the secretary of the Natural Resources and Environmental Protection Cabinet to represent that agency;
- ***(d)***[~~(c)~~]One (1) member shall be selected by the secretary of the Cabinet for Economic Development; and
- ***(e)***[~~(d)~~]Four (4) members who are owners, or representatives of owners of small business stationary sources, shall be selected by the Kentucky General Assembly as follows:
  1. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the Senate, and
  2. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the House of Representatives.

(3) ***Members who were appointed before the effective date of this Act shall continue in office until October 30, 1998. The Governor shall then designate the members who have been appointed in accordance with subsection (2) of this section to serve initial terms as follows:***

- ***(a) Three (3) members shall serve in office for four (4) years;***
- ***(b) Three (3) members shall serve in office for three (3) years;***
- ***(c) Three (3) members shall serve in office for two (2) years; and***
- ***(d) Two (2) members shall serve in office for one (1) year.***

When those initial terms expire, members shall serve in office for four (4) year terms.

(4) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(5)[~~(4)~~] Members of the panel shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with Kentucky statutes and administrative regulations while performing official duties.

(6)[~~(5)~~] The panel shall select one (1) of its members as chair and another as vice chair.

(7)[~~(6)~~] Staff services for the panel shall be performed, insofar as practicable, by personnel of the cabinet.

Section 2. KRS 224.20-500 is amended to read as follows:

The General Assembly hereby declares that assisting small businesses in complying with the requirements of the 1990 Federal Clean Air Act amendments is a top priority due to the pervasive technical nature of these requirements. ***The General Assembly also finds that assisting small businesses in complying with other environmental protection regulatory programs would complement this assistance.*** It is therefore in the best interest of Kentucky small businesses, as well as the citizens of Kentucky, to establish a program whose purpose is to advise small businesses ***on all environmental protection regulatory programs as well as***[~~of~~] the requirements of the ***1990 Federal Clean Air Act*** permitting program and to assist these small businesses in complying with these requirements.

Section 3. KRS 224.20-505 is amended to read as follows:

The cabinet is hereby authorized to establish the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, referred to hereafter as "the program." The program shall perform the functions designated for it in the 1990 Federal Clean Air Act amendments and assist the small business stationary source compliance advisory panel in the development and dissemination of the panel's reports and advisory opinions. ***The program shall also offer assistance in complying with other environmental protection regulatory programs.*** For the purposes of ***providing the assistance to small business stationary sources***[~~this section~~], "small business" shall have the meaning given it in the 1990 Federal Clean Air Act amendments. ***For the purposes of providing assistance with other environmental protection regulatory programs "small***

business" shall also include entities owned or operated by a person that employs one hundred (100) or fewer individuals, is a small business concern as defined in the Small Business Act (15 U.S.C.A. Sections 631 et seq.), but which need not have air emissions subject to regulatory control.

HB 231, AN ACT relating to the Linked Deposit Investment Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 41.600 is amended to read as follows:

As used in KRS 41.600 to 41.625, unless the context requires otherwise:

(1) "Eligible small business" means any person that has all of the following characteristics:
  (a) Is headquartered in this state;
  (b) Maintains offices and operating facilities in this state and transacts business in this state;
  (c) Employs fewer than the equivalent of fifty (50) full-time employees, the majority of whom are residents of Kentucky;
  (d) Has gross earnings that do not exceed one million dollars ($1,000,000) annually;
  (e) Is organized for profit; and
  (f) Holds no position as officer or director of an eligible lending institution.

(2) "Eligible agribusiness" means any person that has all of the following characteristics:
  (a) Is actively engaged in agricultural endeavors within the Commonwealth of Kentucky;
  (b) Shows gross earnings not in excess of one million dollars ($1,000,000) annually;
  (c) Derives at least one-half (1/2) of annual gross income from farming[~~ and not more than sixty thousand dollars ($60,000) annual net income from all other sources~~]; and
  (d) Holds no position as officer or director of an eligible lending institution.

(3) "Eligible lending institution" means a financial institution that is eligible to make commercial loans including an institution of the farm credit system organized under the Farm Credit Act of 1971, 12 U.S.C. 2001 et seq., as amended, which chooses to participate in the linked deposit investment program, and which agrees to lend the value of the deposits to small businesses or agribusinesses at a reduced interest rate according to the provisions of KRS 41.610.

(4) "Linked deposit investment" means a certificate of deposit, collateralized or uncollateralized, or a repurchase agreement placed by the State Investment Commission with an eligible lending institution at the rate designated according to the provisions of KRS 41.610 and where the maturity shall match the terms of the loan as approved by the Department of Agriculture or the Cabinet for Economic Development.

Section 2. KRS 41.610 is amended to read as follows:

(1) Qualified public depositories in Kentucky shall be eligible to participate in the Linked Deposit Investment Program.

(2) An eligible lending institution choosing to participate in the Linked Deposit Investment Program shall enter into a linked deposit investment agreement with the State Investment Commission which shall include requirements necessary to carry out the purposes of the Linked Deposit Investment Program. A linked investment shall bear a minimum rate of two percent (2%) and a maximum rate fixed by the Wall Street Journal prime rate as published on the first business day of each month less four percent (4%).[~~ No single eligible lending institution shall receive in excess of ten percent (10%) of total program assets.~~]

(3) The eligible lending institution that desires to receive a linked deposit investment shall agree to loan the funds to borrowers under the following terms:
  (a) No loan shall exceed ***one hundred thousand dollars ($100,000)***[~~fifty thousand dollars ($50,000)~~];
  (b) Maturity dates of the loan shall be set as agreed to between the financial institution and the borrower with a maximum maturity of ***seven (7)***[~~five (5)~~] years; and
  (c) The rate of interest for the term of the loan shall be fixed at the Wall Street Journal prime rate as published on the first business day of each month[~~ less one percent (1%)~~], with a minimum interest rate of five percent (5%).

(4) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small businesses and agribusinesses. The lending institution shall assume all responsibility for credit underwriting and shall apply all usual lending standards to determine the creditworthiness of each applicant.

(5) The eligible lending institution shall forward to the Department of Agriculture or the Cabinet for Economic Development, as appropriate, a completed loan package for review to determine if the loan package is in accordance with the administrative regulations promulgated pursuant to KRS 41.606(7). If the loan package is found to be complete and in accordance with the administrative regulations, it shall be forwarded to the State Investment Commission for funding.

(6) The eligible lending institution shall charge no penalty for early payback of the linked deposit loan. Principal repayments received by the lending institution shall be returned to the State Investment Commission annually on the anniversary date of the loan.

(7) Applications for renewal of repurchase agreements shall be accompanied by a status report on linked deposit loans.

(8) The Commonwealth, Department of Agriculture, and the Cabinet for Economic Development, their agents and employees, and the State Investment Commission shall not be liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small business or to an eligible small agribusiness. Any delay in payments or default on the part of a borrower shall not affect the deposit agreement between the eligible lending institution and the State.

Section 3. KRS 41.615 is amended to read as follows:

(1) Moneys obtained from the Linked Deposit Investment Program by eligible small ***businesses*** and agribusinesses may be used for annual working capital for production costs, interest costs, capital expense, and debt refinancing.

(2) Eligible lending institutions who have entered into business loans with eligible borrowers prior to July 15, 1996 shall be allowed to refinance prior loans under the terms of the Linked Deposit Investment Program. The borrower shall not be charged any penalty for the refinancing at the same lending institution.

(3) No eligible small business or agribusiness may have a total outstanding principal debt of more than one hundred thousand dollars ($100,000) in the Linked Deposit Investment Program.

HCR 14, A CONCURRENT RESOLUTION creating the Tobacco Program Issues Group.

WHEREAS, the federal tobacco price support program is an effective, very low cost, government program that enables Kentucky's small farm operators to remain economically stable and self-sustaining; and

WHEREAS, an informal survey conducted in 1994 revealed that over 50% of tobacco experts believe there is a "moderate" to "high" probability that the federal tobacco price support program will be abolished within 10 years; and

WHEREAS, there is now before the U. S. Senate a proposal to end the federal tobacco price support program which has been introduced, in part, as a response to the Attorneys General/Tobacco Industry Settlement, Proposed Resolution of June 20, 1997; and

WHEREAS, persuasive arguments may be made that the movement to end the program is not based upon any shortcomings of the program but rather is based partly upon a desire to disrupt the market for tobacco in the belief that the disruption will accomplish through indirect action what has not been achieved through direct action – to persuade individuals to end their use of tobacco products; and

WHEREAS, ending the tobacco price support program for this reason unfairly penalizes small farmers because it is estimated that more than 50% will no longer be able to grow tobacco without the price support program, yet many small farmers will not have the opportunity to replace that income in many areas of the state, and most notably in eastern Kentucky, where off-farm jobs are not widely available; and

WHEREAS, ending tobacco price supports for this reason also places 38 Kentucky counties at severe economic risk, because they are particularly dependent on the growing of tobacco for economic stability due to high unemployment in those counties; and

WHEREAS, Kentucky must protect against the economic disruption that would follow from an end to the federal tobacco price support program and prepare to substitute an equally effective program to provide tobacco price stability to small farmers and the communities in which they live;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to create a Tobacco Program Issues Group. The group shall develop a strategy for the state to enter into a tobacco price support program with other tobacco producing states. The strategy shall include but not be limited to: structuring a states' program similar to the federal program; determining the legal requirements for establishing a states' tobacco price support program; and preparing the initial steps that Kentucky may need to take to enter into a states' program.

Section 2. The Tobacco Program Issues Group shall have fifteen (15) members which shall include five (5) legislative members, three (3) chosen from the House of Representatives and two (2) from the Senate and one (1) member from each of the following: the Kentucky Farm Bureau, the Community Farm Alliance, the Burley Tobacco Growers Cooperative Association, the Burley Auction Warehouse Association, the Council for Burley Tobacco, the University of Kentucky College of Agriculture, Ag Project 2000, the Governor's Office, the Department of Agriculture, and the Economic Development Cabinet.

Section 3. Co-chairs shall be appointed by the Legislative Research Commission from the legislative members of the group.

Section 4. The Tobacco Program Issues Group shall report to the LRC no later than September 15, 1999. In the event that the U. S. Congress moves to end the federal tobacco price support program before the report is due, the group shall immediately advise the Legislative Research Commission and the Governor's Office on the steps to take to best protect the interests of the state and the state's tobacco producers.

Section 5. Staff services to be utilized in completing this study are estimated to cost twenty-five thousand dollars ($25,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Committees assigned Rep. Miller to the following Standing Committees: Education, Licensing and Occupations, and Counties and Special Districts.

Floor Amendments

Floor Amendment No. 1 to **HB 58**, by Representative Bruce:

On page 3, line 17 by deleting "***farm***" and inserting in lieu thereof "***on-farm***" and after the word "***facilities***" by inserting "***as defined in subsection (14) of this section***".

Calendar

HB 68, HB 201, HB 202, HB 97, HB 151, HB 190, HB 197, HB 208, HB 217, HB 259, HB 256, and **HCR 40** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Lee moved that the rules be suspended to introduce guests. Agreed.

Consent Calendar

HB 1 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 63, HB 167, HB 173, HB 68, HB 97, HB 151, HB 190, HB 202,** and **HB 256** have been posted for passage in the Orders of the Day for January 23, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

Judiciary: **HB 22**

Orders of the Day

HB 109 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 109** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See January 22, 1998 roll call on **HB 109** - Appendix.) **HB 109** was passed and the title agreed to. Representative Damron moved that the vote by which **HB 109** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 110 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 110** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See January 22, 1998 roll call on **HB 110** - Appendix.) **HB 110** was passed and the title agreed to. Representative Damron moved that the vote by which **HB 110** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 Title to **HB 256**, by Representative Rasche:

by amending the title to read as follows: AN ACT relating to charitable food kitchens and declaring an emergency.

Orders of the Day (Continued)

HB 135, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 135**. Agreed.

Representative Damron moved that **HB 135**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See January 22, 1998 roll call on **HB 135** - Appendix.) **HB 135**, as amended, was passed. Representative Damron moved the adoption of Floor Amendment No. 2 Title to **HB 135**. Agreed; and the title was agreed to. Representative Damron moved that the vote by which **HB 135**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 240 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 240** be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See January 22, 1998 roll call on **HB 240** - Appendix.) **HB 240** was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 240** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 68**, by Representative Anderson:

On page 1, line 17 after the word "allot", by deleting the word "***seven***" and replacing it with "***ten***"; and

On page 1, line 18, after the word "thousand", by deleting the words "***five hundred***"; and

On page 1, line 18, after the word "dollars", by deleting the word "***($7,500)***" and by replacing it with the word "***($10,000)***".

Orders of the Day (Continued)

HB 39, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 39**. Agreed.

Representative Stacy moved that **HB 39**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 1 (See January 22, 1998 roll call on **HB 39** - Appendix.) **HB 39**, by way of Committee Substitute, was passed and the title agreed to. Representative Stacy moved that the vote by which **HB 39**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 52, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 52**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 52**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 52**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 52**. Agreed.

Representative Thomas moved that **HB 52**, by way of Committee Substitute as amended, be passed.

Representative Anderson moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 52**.

Representative Riggs inquired if a fiscal note was filed on Floor Amendment No. 7 to the Committee Substitute to **HB 52**. The Speaker stated that a fiscal note was already filed on **HB 52**. Floor Amendment No. 7 to the Committee Substitute to **HB 52** was rejected. (See January 22, 1998 roll call on Floor Amendment No. 7 to the Committee Substitute to **HB 52** - Appendix.)

Representative Thomas moved that **HB 52**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See January 22, 1998 roll call on **HB 52** - Appendix.) **HB 52**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Thomas moved that the vote by which **HB 52**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 87, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 87**. Agreed.

Representative Wayne moved that **HB 87**, by way of Committee Substitute, be passed.

Representative Allen inquired if a fiscal note was needed on **HB 87**. The Speaker responded that a motion may be made to lay **HB 87** on the Clerk's Desk pending preparation of a fiscal note.

Representative Collins moved that **HB 87** be laid on the table. The motion that **HB 87** be laid on the table was rejected. (See January 22, 1998 roll call to table **HB 87** - Appendix.)

On the roll call on the passage of **HB 87**, by way of Committee Substitute, the vote was: Yeas 61, Nays 36 (See January 22, 1998 roll call on **HB 87** - Appendix.) **HB 87**, by way of Committee Substitute, was passed and the title agreed to. Representative Wayne moved that the vote by which **HB 87**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 142**, by Representative Burch:

On page 14, line 14, after "***harm***" by inserting the following "***. This condition shall not include reasonable and ordinary discipline recognized in the community where the child resides. "Reasonable and ordinary" does not include actions that result in abuse or neglect as defined in KRS 600.020(1)***".

Floor Amendment No. 2 to the Committee Substitute to **HB 142**, by Representative Hogancamp:

On page 2, line 7, By deleting the following: "***or emotional***"; and

On page 2, line 8, By deleting the following: "***including, but not limited to, parental incapacity due to***" and by inserting "***, as a result of the parent's involvement with***" in lieu thereof.

Floor Amendment No. 3 to the Committee Substitute to **HB 142**, by Representative Hogancamp:

On page 16, line 18, after the word "***physical***", By deleting, "***or psychological***".

Floor Amendment No. 4 to the Committee Substitute to **HB 142**, by Representative Hogancamp:

On page 25, lines 10 and 11, By deleting "***Upon the request of the parent,***"; and By capitalizing "the" on line 11.

Floor Amendment No. 5 to the Committee Substitute to **HB 142**, by Representative Hogancamp:

On page 26, line 7, By deleting "***harm***" and By inserting in lieu thereof, "***injury***".

Floor Amendment No. 1 to the Committee Substitute to **HB 132**, by Representative Hogancamp:

On page 2, line 10, after the word, "***care***", By inserting the following: "***, which includes necessary food, clothing, shelter, and age-appropriate education,***"; and

On page 16, line, line 22, after the word, "***care***", By inserting the following: "***, which includes necessary food, clothing, shelter, and age-appropriate education,***".

Floor Amendment No. 6 to the Committee Substitute to **HB 142**, by Representative Hogancamp:

On page 9, line 10, By deleting the words "***or of mental faculty***".

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 391, by Representative Long: AN ACT relating to architectural and engineering services.

HB 392, by Representative Long: AN ACT relating to the selection of underwriters and bond counsel firms.

HB 393, by Representative Long: AN ACT relating to aviation.

HB 394, by Representative Damron: AN ACT relating to revenue and taxation.

HB 395, by Representatives Callahan, Marcotte, D. Butler, Murgatroyd and L. Clark: AN ACT relating to noncontinguous race track facilities.

HB 396, by Representative Coleman: AN ACT relating to the evaluation of certified employees.

HB 397, by Representative Adkins: AN ACT relating to tourism development and declaring an emergency.

HJR 53, by Representative Stumbo: A JOINT RESOLUTION directing the Transportation Cabinet to name US Highway 23 within the boundaries of Floyd County in honor of Charles A. Gearheart.

HR 54, by Representative Heleringer: A RESOLUTION memorializing the twenty-fifth anniversary of the United States Supreme Court decision of Roe versus Wade, which legalized abortion.

HR 55, by Representative Heleringer: A RESOLUTION memorializing the twenty-fifth anniversary of the United States Supreme Court decision of Roe versus Wade, which legalized abortion.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 339**

Agriculture and Small Business: **HB 317**

Cities: **HB 286**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 37,** with Committee Substitute and Committee Amendment No. 1 Title attached thereto, **HB 54**, with Committee Substitute attached thereto, **HB 60**, with Committee Substitute attached thereto, **HB 61**, with Committee Substitute attached thereto, **HB 165, HB 174, HB 166, HB 313,** and **HB 314** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 37, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 402 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of law, marriage is prohibited and void when at the time of the marriage the person is under sixteen (16) years of age. Provided, however, that in the case of pregnancy the male and female, or either of them, under the age of sixteen (16) may apply to a District Court Judge for permission to marry, which application may be granted, in the discretion of the judge. There shall be a fee of five dollars ($5) for hearing each such application.

The Committee Substitute to **HB 37** is as follows:

AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.020 is amended to read as follows:

(1) Marriage is prohibited and void:

(a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;

(b) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(c) When not solemnized or contracted in the presence of an authorized person or society;

(d) ***1. Except as provided in subparagraph 3. of this paragraph, when at the time of the marriage, the person is under sixteen (16) years of age;***

2. Except as provided in subparagraph 3. of this paragraph, when at the time of marriage, the person is under eighteen (18) ***but over sixteen (16)*** years of age, if the marriage is without the consent of:

a.~~[1.]~~ The father or the mother of the person under eighteen (18) ***but over sixteen (16)***, if the parents are married, the parents are not legally separated, no legal guardian has been appointed for the person under eighteen (18) ***but over sixteen (16)***, and no court order has been issued granting custody of the person under eighteen (18) ***but over sixteen (16)*** to a party other than the father or mother;

b.~~[2.]~~ Both the father and the mother, if both be living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) ***but over sixteen (16)*** has been issued and is in effect;

c.~~[3.]~~ The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) ***but over sixteen (16)*** was issued prior to the death of either the father or mother, which order remains in effect;

d.~~[4.]~~ The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the person under eighteen (18) ***but over sixteen (16)*** has not been ordered; or

e.~~[5.]~~ Another person having lawful custodial charge of the person under eighteen (18) ***but over sixteen (16)***;

3. ~~[Provided, however, that]~~In case of pregnancy the male and female, or either of them,~~[under the ages herein]~~ specified ***in subparagraph 1. or 2. of this paragraph,*** may apply to a District Court Judge for permission to marry, which application may be granted, ***in the form of a written court order,*** in the discretion of the judge. There shall be a fee of five dollars ($5) for hearing each such application***.***~~[;]~~

(2) For purposes of this section "parent," "father" or "mother" means the natural parent, father or mother of a child under eighteen (18) unless an adoption takes place pursuant to legal process, in which case the adoptive parent, father or mother shall be considered the parent, father or mother to the exclusion of the natural parent, father or mother, as applicable.

Section 2. KRS 402.030 is amended to read as follows:

(1) Courts having general jurisdiction may declare void any marriage obtained by force or fraud***.***~~[or,]~~

(2) At the instance of any next friend, ***courts having general jurisdiction*** may declare any marriage void where the person was under eighteen (18) ***but over sixteen (16)*** years of age at the time of the marriage, and the marriage was without the consent required by KRS 402.020(1)(d) and has not been ratified by cohabitation after that age.

(3) At the instance of any next friend, courts having general jurisdiction may declare void any marriage where:

(a) The person was under sixteen (16) years of age at the time of the marriage;

(b) The marriage was not conducted with the permission of a District Court Judge, as required by subsection

(1)(d)3. of Section 1 of this Act, in the form of a written court order; and

(c) The marriage has not been ratified by cohabitation after the person reached eighteen (18) years of age.

Section 3. KRS 402.210 is amended to read as follows:

(1) If either of the parties is under eighteen (18) ***but over sixteen (16)*** years of age and not before married, no license shall issue without the consent required by KRS 402.020(1)(d), personally given or certified in writing to the clerk over the signature of the person consenting in accordance with KRS 402.020(1)(d), attested by two (2) subscribing witnesses and proved by the oath of one (1) of the witnesses, administered by the clerk. If the parties are personally unknown to the clerk, a license shall not issue until bond, with good surety, in the penalty of one hundred dollars ($100) is given to the Commonwealth, with condition that there is no lawful cause to obstruct the marriage.

(2) If either of the parties is under sixteen (16) years of age, no license shall issue without the permission of a District Court Judge, as required by subsection (1)(d)3. of Section 1 of this Act, in the form of a certified copy of a written court order.

Section 4. Whereas on a daily basis, children in Kentucky are marrying without understanding the adverse consequences for themselves and their own children, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 37** is as follows:

By amending the title to read as follows: AN ACT relating to marriage and declaring an emergency.

HB 54, AN ACT relating to shooting ranges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 and 3 of this Act:

(1) "Shooting range" or "range" means an area designated and operated by a person for the shooting of firearms and not available for that use by the general public without payment of a fee, membership contribution, or dues, or by invitation of an authorized person; or any area so designated and operated by a unit of government, regardless of the terms of admission thereto.

(2) "Unit of government" means any of the departments of state government or political subdivisions of the state, cities, counties, urban-counties, or charter counties, or any of their respective departments, agencies, or authorities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) No shooting range shall be or shall become a nuisance, either public or private, solely as a result of changed conditions in or around the locality of the range if the range has been in operation for one (1) year since the date on which it commenced operation as a shooting range. Subsequent physical expansion of the range or expansion of the types of firearms in use at the range shall not establish a new date of commencement of operations for purposes of this section.

(2) No shooting range or unit of government or person owning, operating, or using a shooting range for the shooting of firearms shall be subject to any action for civil or criminal liability, damages, abatement, or injunctive relief resulting from or relating to noise generated by the operation of the range if the range remains in compliance with noise control or nuisance abatement administrative regulations, statutes, or ordinances applicable to the range on the date on which it commenced operation.

(3) No administrative regulations, statutes, or ordinances relating to noise control, noise pollution, or noise abatement adopted or enacted by a unit of government shall be applied retroactively to prohibit conduct at a shooting range, which conduct was lawful and being engaged in prior to the adoption or enactment of the administrative regulations, statutes, or ordinances.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 and 2 of this Act shall be retroactive and shall apply to covered actions either before, on, or after the effective date of this Act.

The Committee Substitute to **HB 54** is as follows:

AN ACT relating to shooting ranges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 and 3 of this Act:

(1) "Shooting range" or "range" means an area designated and operated by a person for the shooting of firearms and not available for that use by the general public without payment of a fee, membership contribution, or dues, or by invitation of an authorized person; or any area so designated and operated by a unit of government, regardless of the terms of admission thereto.

(2) "Unit of government" means any of the departments of state government or political subdivisions of the state, cities, counties, urban-counties, or charter counties, or any of their respective departments, agencies, or authorities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) No shooting range shall be or shall become a nuisance, either public or private, solely as a result of changed conditions in or around the locality of the range if the range has been in operation for one (1) year since the date on which it commenced operation as a shooting range. Subsequent physical expansion of the range or expansion of the types of firearms in use at the range shall not establish a new date of commencement of operations for purposes of this section unless the change triples the amount of the noise produced by the shooting range. The increase in the noise level at the shooting range shall be measured by an independent testing agency or a unit of government and shall compare the highest noise levels during any one (1) month during which the range is in full operation with a subsequent month in which the range is in full operation and conducting a comparable level of shooting activities. Only a person who lives adjacent to the shooting range shall have standing to bring an action under this section.

(2) No shooting range or unit of government or person owning, operating, or using a shooting range for the shooting of firearms shall be subject to any action for civil or criminal liability, damages, abatement, or injunctive relief resulting from or relating to noise generated by the operation of the range if the range remains in compliance with noise control or nuisance abatement administrative regulations, statutes, or ordinances applicable to the range on the date on which it commenced operation.

(3) No administrative regulations, statutes, or ordinances relating to noise control, noise pollution, or noise abatement adopted or enacted by a unit of government shall be applied retroactively to prohibit conduct at a shooting range, which conduct was lawful and being engaged in prior to the adoption or enactment of the administrative regulations, statutes, or ordinances.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 and 2 of this Act shall be retroactive and shall apply to covered actions either before, on, or after the effective date of this Act.

HB 60, AN ACT relating to legal representatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 311.621 TO 311.643 IS CREATED TO READ AS FOLLOWS:

If, following the execution of an advance directive under KRS 311.623, a court of the grantor's principal domicile appoints a fiduciary charged with the care and protection of the grantor's person, the fiduciary shall be bound by the terms of the grantor's advance directive. If the advance directive designates a surrogate to make health care decisions for the grantor, the surrogate may continue to act.

Section 2. KRS 386.093 is amended to read as follows:

(1) As used in this section, "durable power of attorney" means a power of attorney by which a principal designates another as the principal's attorney in fact in writing and the writing contains the words, "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time", or "This power of attorney shall become effective upon the disability or incapacity of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.

(2) All acts done by an attorney in fact under a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and the principal's successors in interest as if the principal were competent and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.

(3) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a fiduciary charged with the management of all of the principal's property or all of the principal's property except specified exclusions, the attorney in fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if the principal were not disabled

or incapacitated.

(4) A principal may nominate, by a durable power of attorney, a limited guardian, guardian, limited conservator, or conservator for consideration by the court if a fiduciary is to be appointed under KRS 387.500 to 387.770 and KRS 387.990.

(5) The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.

(6) The disability or incapacity of the principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(7) If the power of attorney is to become effective upon the disability or incapacity of the principal, the principal may specify the conditions under which the power is to become effective and may designate the person, persons, or institution responsible for making the determination of disability or incapacity. If the principal fails to so specify, the power shall become effective upon a written determination by two (2) physicians that the principal is unable, by reason of physical or mental disability, to prudently manage or care for the principal's person or property, which written determination shall be conclusive proof of the attorney in fact's power to act pursuant to the power of attorney. The two (2) physicians making the determination shall be licensed to practice medicine~~[When a principal designates another his attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by the disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, then the authority of the attorney in fact or agent is exercisable by him as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent, pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive, have the same effect and inure to the benefit of and bind the principal or his heirs, devisees and personal representative as if the principal were alive, competent and not disabled. If a fiduciary is thereafter appointed by the court for the principal the power of the attorney in fact shall thereupon terminate and he shall account to the court's appointed fiduciary]~~.

Section 3. KRS 387.530 is amended to read as follows:

(1) A petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator may be filed by any interested person or by an individual needing guardianship or conservatorship. The petition shall set forth the following:

  (a) The name and address of the respondent;

  (b) The date of birth of the respondent, if known;

  (c) The nature and degree of the alleged disability of the respondent;

  (d) The facts and reasons supporting the need for guardianship or conservatorship;

  (e) A description and approximation of the value of the respondent's financial resources, including government benefits, insurance entitlements, and anticipated yearly income, if known;

  (f) The names and addresses of the respondent's next of kin, if known;

  (g) The name and address of the individual or facility, if any, having custody of the respondent;

  (h) The name, address and interest of the petitioner;~~[and]~~

  (i) The name and address of the petitioner's attorney, if any***; and***

  (j) The name and address of any person or entity appointed by the respondent as respondent's attorney in fact under a durable power of attorney, as defined in subsection (1) of Section 2 of this Act, or as respondent's surrogate to make health care decisions under an advance directive.

(2) The petition shall be accompanied by a verified application of the person or entity desiring appointment as limited guardian, guardian, limited conservator, or conservator. The application shall state the name, address and qualifications of the applicant and his relationship to the respondent. If it is proposed that a standby limited guardian, guardian, limited conservator, or conservator be designated, the petition shall also be accompanied by the application of the person or entity desiring to be so designated. Additional petitions may be filed prior to the date of the hearing by other persons desiring appointment.

Section 4. KRS 387.600 is amended to read as follows:

(1) ***If the respondent has not made a nomination by verified petition under KRS 387.330 or has made a nomination and***

the nominee is unfit or incompetent, then the court shall appoint as limited guardian, guardian, limited conservator, or conservator the individual, agency, or corporation nominiated most recently in a durable power of attorney, as defined in subsection (1) of Section 2 of this Act, by the respondent, unless the court deems it imprudent to appoint the nominee because of a change of circumstances since execution of the power of attorney or for other good cause shown.

(2) ***(a)*** ***If the respondent has not made a nomination by verified petition pursuant to KRS 387.330, or in a durable power of attorney, as defined in subsection (1) of Section 2 of this Act, or if the court deems it imprudent to appoint the nominee, then*** the court may appoint as limited guardian, guardian, limited conservator, or conservator any suitable person or any entity, public or private, capable of conducting an active guardianship or conservatorship program. The court shall not ordinarily or customarily appoint the Cabinet for Human Resources or any other person or entity, public or private, that is directly providing services to the respondent unless no other suitable person or entity is available and willing to be appointed. Appointment of the Cabinet for Human Resources shall be consistent with the provisions of KRS 210.290.

(b)[~~(2)~~] Prior to the appointment, the court shall make a reasonable effort to question the respondent concerning his preference regarding the person or entity to be appointed limited guardian, guardian, limited conservator, or conservator, and any preference indicated shall be given due consideration. If the respondent has designated another as his attorney in fact or agent by executing a power of attorney in writing, that designation shall be treated as an indication of the respondent's preference as to the person or entity to be appointed as his limited guardian, guardian, limited conservator, or conservator, and that preference shall be given due consideration. The court shall appoint the person or entity best qualified and willing to serve.

Section 5. The following KRS section is repealed:

387.605 Qualifications for court to consider when appointing a guardian or conservator.

The Committee Substitute to **HB 60** is as follows:

AN ACT relating to legal representatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 311.621 TO 311.643 IS CREATED TO READ AS FOLLOWS:

If, following the execution of an advance directive under KRS 311.623, a court of the grantor's principal domicile appoints a fiduciary charged with the care and protection of the grantor's person, the fiduciary shall be bound by the terms of the grantor's advance directive. If the advance directive designates a surrogate to make health care decisions for the grantor, the surrogate may continue to act.

Section 2. KRS 386.093 is amended to read as follows:

(1) ***As used in this section, "durable power of attorney" means a power of attorney by which a principal designates another as the principal's attorney in fact in writing and the writing contains the words, "This power of attorney shall not be affected by subsequent disability or incapacity of the principal, or lapse of time", or "This power of attorney shall become effective upon the disability or incapacity of the principal", or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding the principal's subsequent disability or incapacity, and, unless it states a time of termination, notwithstanding the lapse of time since the execution of the instrument.***

(2) ***All acts done by an attorney in fact under a durable power of attorney during any period of disability or incapacity of the principal have the same effect and inure to the benefit of and bind the principal and the principal's successors in interest as if the principal were competent and not disabled. Unless the instrument states a time of termination, the power is exercisable notwithstanding the lapse of time since the execution of the instrument.***

(3) ***The death of a principal who has executed a written power of attorney, durable or otherwise, does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the death of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds successors in interest of the principal.***

(4) ***The disability or incapacity of the principal who has previously executed a written power of attorney that is not a durable power does not revoke or terminate the agency as to the attorney in fact or other person, who, without actual knowledge of the disability or incapacity of the principal, acts in good faith under the power. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.***

(5) ***If the power of attorney is to become effective upon the disability or incapacity of the principal, the principal may specify the conditions under which the power is to become effective and may designate the person, persons, or institution responsible for making the determination of disability or incapacity. If the principal fails to so specify, the power shall become effective upon a written determination by two (2) physicians that the principal is unable, by***

reason of physical or mental disability, to prudently manage or care for the principal's person or property, which written determination shall be conclusive proof of the attorney in fact's power to act pursuant to the power of attorney. The two (2) physicians making the determination shall be licensed to practice medicine[~~When a principal designates another his attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by the disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, then the authority of the attorney in fact or agent is exercisable by him as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent, pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive, have the same effect and inure to the benefit of and bind the principal or his heirs, devisees and personal representative as if the principal were alive, competent and not disabled. If a fiduciary is thereafter appointed by the court for the principal the power of the attorney in fact shall thereupon terminate and he shall account to the court's appointed fiduciary~~].

Section 3. KRS 387.530 is amended to read as follows:

(1) A petition for a determination of partial disability or disability and the appointment of a limited guardian, guardian, limited conservator, or conservator may be filed by any interested person or by an individual needing guardianship or conservatorship. The petition shall set forth the following:

(a) The name and address of the respondent;

(b) The date of birth of the respondent, if known;

(c) The nature and degree of the alleged disability of the respondent;

(d) The facts and reasons supporting the need for guardianship or conservatorship;

(e) A description and approximation of the value of the respondent's financial resources, including government benefits, insurance entitlements, and anticipated yearly income, if known;

(f) The names and addresses of the respondent's next of kin, if known;

(g) The name and address of the individual or facility, if any, having custody of the respondent;

(h) The name, address and interest of the petitioner;[~~ and~~]

(i) The name and address of the petitioner's attorney, if any***; and***

(j) The name and address of any person or entity appointed by the respondent as respondent's attorney in fact under a durable power of attorney, as defined in subsection (1) of Section 2 of this Act, or as respondent's surrogate to make health care decisions under an advance directive.

(2) The petition shall be accompanied by a verified application of the person or entity desiring appointment as limited guardian, guardian, limited conservator, or conservator. The application shall state the name, address and qualifications of the applicant and his relationship to the respondent. If it is proposed that a standby limited guardian, guardian, limited conservator, or conservator be designated, the petition shall also be accompanied by the application of the person or entity desiring to be so designated. Additional petitions may be filed prior to the date of the hearing by other persons desiring appointment.

HB 61, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.035 is amended to read as follows:

(1) ***If***[~~Whenever~~] real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in ***the***[~~such~~] will, proceedings may be had in the District Court to determine the persons entitled to ***the***[~~such~~] property.

(2) (a) If an estate is in process of administration the executor, administrator***,*** or any person claiming an interest in the property may file a motion in the District Court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the District Court of the county in which the decedent last resided or***, if***[~~ in the event~~] the decedent was not a Kentucky resident, in the District Court of the county in which the property, or the greater part thereof, is located;

(b) The motion shall set forth all of the facts known to ***the*** movant relating to the matter, including the names, ages***,*** and addresses of all persons who are or may be entitled to share in ***the***[~~such~~] property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value;

(c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time***,*** [~~(~~which shall not be less than twenty (20) days from the date of service***,***~~)~~] when the motion will come on for hearing.

(3) Upon the hearing on the motion any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.

(4) After hearing all the evidence the court shall enter judgment in which the names, ages***,*** and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each. ***The judgment shall be conclusive evidence of the facts determined therein as against all parties, whether known or unknown, to the proceeding.***

(5) In a case where some or all of the property is real ***property***[~~estate~~] located in this state***,*** a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120. ***The judgment shall be conclusive evidence of the facts determined therein as against all parties, whether known or unknown, to the proceeding.***

(6) Any party may at any time prior to judgment institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

(7) Any aggrieved party may no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

(8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

(9) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Section 2. KRS 395.278 is amended to read as follows:

An ***order of substitution shall be entered or a motion shall be made***[~~application~~] to revive an action in the name of ***or against*** the ***personal*** representative or successor of a ***deceased party***[~~plaintiff, or against the representative or successor of a defendant, shall be made~~] within ***six (6) months***[~~one (1) year~~] after the ***appointment of the personal representative, or if no personal representative has been appointed, within two (2) years after the decedent's*** death[~~ of a deceased party~~].

Section 3. KRS 396.205 is amended to read as follows:

Notwithstanding any other statute to the contrary, no cause of action on any claim not otherwise barred by the provisions of KRS 396.011 and subsection (1) of KRS 396.055, or any other applicable statute of limitations, shall be brought against the personal representative or against any distributee after the expiration of two (2) years from the date of the order of discharge of the personal representative. The foregoing limitation shall not preclude an action by any claimant against the personal representative ***or any distributee*** for fraud[~~, misrepresentation or inadequate disclosure related to the settlement of the decedent's estate~~].

The Committee Substitute to **HB 61** is as follows:

AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 391.035 is amended to read as follows:

(1) ***If***[~~Whenever~~] real or personal property passes by the laws of intestate succession, or under a will to a beneficiary not named in ***the***[~~such~~] will, proceedings may be had in the District Court to determine the persons entitled to ***the***[~~such~~] property.

(2) (a) If an estate is in process of administration the executor, administrator***,*** or any person claiming an interest in the property may file a motion in the District Court where administration is in process. If there is no pending administration or administration has been dispensed with, any person claiming an interest in the property may file a motion in the District Court of the county in which the decedent last resided or***, if***[~~ in the event~~] the decedent was not a Kentucky resident, in the District Court of the county in which the property, or the greater part thereof, is located;

(b) The motion shall set forth all of the facts known to ***the*** movant relating to the matter, including the names, ages***,*** and addresses of all persons who are or may be entitled to share in ***the***[~~such~~] property and their relationship to the decedent or to the class of beneficiaries entitled to share. The motion shall also describe the property under consideration and an estimate of its value;

(c) The motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action and shall set forth the place and time***,*** [~~(~~which shall not be less than twenty (20) days from the date of service***,***~~)~~] when the motion will come on for hearing.

(3) Upon the hearing on the motion any person claiming an interest in the property may introduce proof in support of his claim and the court may entertain the admission of any other relevant evidence to aid the court in determining the persons entitled to share in the property.

(4) After hearing all the evidence the court shall enter judgment in which the names, ages, and addresses of the persons entitled to share in the property are set forth and the proportionate interest of each. ***The judgment shall be conclusive evidence of the facts determined therein as against all parties, whether known or unknown, to the proceeding.***

(5) In a case where some or all of the property is real ***property***~~[estate]~~ located in this state, a certified copy of the judgment shall be recorded in the office of the appropriate county clerk in lieu of the affidavit required by KRS 382.120. ***The judgment shall be conclusive evidence of the facts determined therein as against all parties, whether known or unknown, to the proceeding.***

(6) Any party may at any time prior to judgment institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

(7) Any aggrieved party may no later than thirty (30) days from the date of the judgment, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

(8) Any unknown defendants before the court by constructive service alone shall be entitled to the protection afforded by Civil Rule 4.11.

(9) No proceedings under this section shall be conducted by or before a commissioner of the District Court.

Section 2. KRS 396.205 is amended to read as follows:

Notwithstanding any other statute to the contrary, no cause of action on any claim not otherwise barred by the provisions of KRS 396.011 and subsection (1) of KRS 396.055, or any other applicable statute of limitations, shall be brought against the personal representative or against any distributee after the expiration of two (2) years from the date of the order of discharge of the personal representative. The foregoing limitation shall not preclude an action by any claimant against the personal representative ***or any distributee*** for fraud~~[, misrepresentation or inadequate disclosure related to the settlement of the decedent's estate]~~.

HB 165, AN ACT relating to disposition of property at death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Co-owners with right of survivorship" means and includes joint tenants, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitle one (1) or more to the whole of the property or account on the death of the other or others;

(2) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with payment on death (POD) designation, pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a donative, appointive, or nominative instrument of any other type; and

(3) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency, subdivision, or instrumentality, or any other person authorized or obligated by law or a governing instrument to make payments.

SECTION 2. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 6 of this Act, if the title to property, the devolution of property, the right to elect an interest in property, or the right to exempt property, homestead, or family allowance depends upon an individual's survivorship of the death of another individual, an individual who is not established by clear and convincing evidence to have survived the other individual by one hundred and twenty (120) hours is deemed to have predeceased the other individual. This section shall not apply if its application would result in a taking of intestate estate by the state.

SECTION 3. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 6 of this Act, for purposes of a donative provision of a governing instrument, an individual who is not established by clear and convincing evidence to have survived an event, including the death of another individual, by one hundred and twenty (120) hours is deemed to have predeceased the event.

SECTION 4. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 6 of this Act:

(1) If it is not established by clear and convincing evidence that one (1) of two (2) co-owners with right of survivorship survived the other co-owner by one hundred and twenty (120) hours, one-half (1/2) of the property shall pass as if one (1) had survived by one hundred and twenty (120) hours and one-half (1/2) as if the other had survived by one

hundred and twenty (120) hours.

(2) If there are more than two (2) co-owners and it is not established by clear and convincing evidence that at least one (1) of them survived the others by one hundred and twenty (120) hours, the property shall pass in the proportion that each bears to the whole number of co-owners.

SECTION 5. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

In addition to the rules of evidence in courts of general jurisdiction, for the purposes of Sections 1 to 7 of this Act only, the following rules relating to a determination of death and status shall apply:

(1) Death shall be deemed to occur when the requirements of KRS 446.400 have been met.

(2) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred shall be prima facie evidence of the fact, place, date, and time of death and the identity of the decedent.

(3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive shall be prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report.

(4) In the absence of prima facie evidence of death under subsection (2) or (3) of this section, the fact of death shall be established by clear and convincing evidence, including circumstantial evidence.

(5) An individual whose death is not established under subsection (2), (3), or (4) of this section and who is absent for a continuous period of seven (7) years, during which the individual has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry, shall be presumed dead. His or her death shall be presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

(6) In the absence of evidence disputing the time of death stipulated on a document described in subsection (2) or (3) of this section, a document described in subsection (2) or (3) of this section that stipulates a time of death one hundred and twenty (120) hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by one hundred and twenty (120) hours.

SECTION 6. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

Survival by one hundred and twenty (120) hours is not required if:

(1) The governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;

(2) The governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a stated period, but survival of the event or the specified period shall be established by clear and convincing evidence;

(3) The imposition of a one hundred and twenty (120) hour requirement of survival would cause a nonvested property interest or a power of appointment to be invalid under the Rule Against Perpetuities, but survival shall be established by clear and convincing evidence; or

(4) The application of a one hundred and twenty (120) hour requirement to multiple governing instruments would result in an unintentional failure or duplication of a disposition, but survival shall be established by clear and convincing evidence.

SECTION 7. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

(1) (a) A payor or other third party shall not be liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument who, under this chapter, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this chapter. A payor or other third party shall be liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this chapter.

(b) Written notice of a claimed lack of entitlement under paragraph (a) of this subsection shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this chapter, a payor or other third party shall pay any amount owed, or transfer or deposit any item of property held by it, to or with the court having jurisdiction of the probate proceedings related to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to the decedent's estate

located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this chapter, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court shall discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(2) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, shall not be obligated under this chapter to return the payment, item of property, or benefit and shall not be liable under this chapter for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this chapter shall be obligated to return the payment, item of property, or benefit or shall be personally liable for the amount of the payment of the value of the item of property or benefit, to the person who is entitled to it under this chapter.

(3) If this chapter, or any part of this chapter, is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this chapter, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this chapter shall be obligated to return the payment, item of property, or benefit or shall be personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this chapter, or part of this chapter, not preempted.

SECTION 8. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

SECTION 9. A NEW SECTION OF KRS CHAPTER 397 IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Uniform Simultaneous Death Act (1991).

SECTION 10. A NEW SECTION OF KRS CHAPTER 394 IS CREATED TO READ AS FOLLOWS:

(1) A will may validly transfer property to the trustee of a trust:

(a) Established during the testator's lifetime by the testator, by the testator and one (1) or more other persons, or by one (1) or more other persons, including a funded or unfunded life insurance trust, although one (1) or more persons other than the trustee have reserved any or all rights of ownership of the insurance contracts; or

(b) Established at the testator's death by the testator's transfer to the trustee, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the corpus of the trust.

(2) A transfer referred to in subsection (1) of this section shall not be invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death.

(3) Unless the testator's will provides otherwise, property transferred to a trust in accordance with subsection (1) of this section shall not be held under a testamentary trust of the testator but shall become a part of the trust to which it is transferred. The property shall be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including any amendments to it made before or after the testator's death.

(4) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death shall cause the devise or bequest to lapse.

(5) This section shall be effective for any devise or bequest made by wills of decedents dying on or after the effective date of this Act.

(6) This section shall be construed to effectuate its general purpose to make uniform the law of those states that enact it.

(7) This section may be cited as the Uniform Testamentary Additions to Trusts Act.

Section 11. KRS 391.360 is amended to read as follows:

(1) ***A written provision for a nonprobate transfer on death***[~~Any of the following provisions~~] in an insurance policy, contract of employment, bond, mortgage, promissory note, ***certified or uncertified security account agreement, custodial agreement,*** deposit agreement, ***compensation plan,*** pension plan, ***individual retirement plan, employee benefit plan,*** trust[~~ agreement~~], conveyance***, deed of gift, marital property agreement,*** or[~~ any~~] other written instrument ***of a similar nature is***[~~effective as a contract, gift, conveyance, or trust is deemed to be~~] nontestamentary***. These written provisions shall include, but not be limited to, written provisions which provide that:***[~~, and KRS 391.300 to 391.355 does not invalidate the instrument or any provision;~~]

(a) ~~[That]~~Money or other benefits~~[theretofore]~~ due to, controlled, or owned by a decedent ***before death*** shall be paid after ***the decedent's***~~[his]~~ death to a person ***whom***~~[designated by]~~ the decedent ***designates***~~[in]~~ either ***in*** the instrument or ***in*** a separate writing, including a will, executed ***before,*** at the same time***, or after***~~[as]~~ the instrument ***is executed***~~[or subsequently]~~;

(b) ~~[That any]~~Money due or to become due under the instrument shall cease to be payable in ***the*** event of the death of the promisee or the promissor before payment or demand; or

(c) ~~[That]~~Any property***, controlled by or owned by the decedent before death,*** which is the subject of the instrument shall pass to a person~~[designated by]~~ the decedent ***designates***~~[in]~~ either ***in*** the instrument or ***in*** a separate writing, including a will, executed ***before,*** at the same time***, or after***~~[as]~~ the instrument ***is executed***~~[or subsequently]~~.

(2) ~~[Nothing in]~~This section ***shall not limit***~~[limits]~~ the rights of creditors under other laws of this state.

Section 12. The following KRS sections are repealed:

394.075 Uniform Testamentary Additions to Trusts Act.
397.010 No sufficient evidence of survivorship.
397.020 Survival of beneficiaries.
397.030 Joint tenants or tenants by the entirety.
397.040 Insurance policies.
397.050 Chapter not retroactive.
397.060 Chapter does not apply if decedent provides otherwise.
397.070 Uniformity of interpretation.
397.080 Short title.

Section 13. An act done before this Act's effective date in any proceeding and any accrued right shall not be impaired by Sections 1 to 7 of this Act. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time that has commenced to run by the provisions of any statute before this Act's effective date, the provisions shall remain in force with respect to that right, notwithstanding Sections 1 to 7 of this Act.

Any rule of construction or presumption provided in Sections 1 to 7 of this Act shall not apply to instruments executed and multiple-party accounts opened before this Act's effective date.

The provisions of Sections 1 to 7 of this Act shall not apply to persons who die prior to the effective date of this Act.

HB 174, AN ACT relating to domestic violence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS 189A.010 or KRS 281A.210.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.

(b) For the purposes of this subsection, the term "family member" means a spouse, including a former spouse, a parent, a grandparent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree.

(c) For the purpose of this subsection, the term "member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together.

(3) For purposes of subsection (2) of this section, a "peace officer" is:

(a) A full-time sworn officer of the Kentucky State Police, a full-time sworn officer of the Kentucky Horse Park, a commissioned full-time state park ranger, a full-time state water patrol officer, a full-time city policeman, a full-time county policeman, a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970, a full-time city-county policeman, a duly elected sheriff, or a full-time[~~ paid~~] deputy sheriff; or

(b) A part-time[~~ paid~~] law enforcement officer, or a special[~~ paid~~] deputy, who has completed a Kentucky law enforcement council approved education and training program referred to in KRS 403.784.

(c) The provisions of this section relating to training shall not apply to a deputy sheriff who is subject to the training requirements specified in KRS 70.263(3).

(4) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(5) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

HB 166, AN ACT relating to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.120 is amended to read as follows:

Joint tenants may be compelled to make partition, and when a joint tenant dies, ***the joint tenant's***[~~his~~] part of the joint estate, real or personal, shall descend to ***the joint tenant's***[~~his~~] heirs, or pass by devise, or go to ***the joint tenant's***[~~his~~] personal representative, subject to debts, curtesy, dower***,*** or distribution.

Section 2. KRS 381.130 is amended to read as follows:

(1) KRS 381.120 shall not apply to any estate which joint tenants hold as executors or trustees, nor***, except as provided in subsection (2) of this section,*** to an estate conveyed or devised to persons in their own right, when it manifestly appears, from the tenor of the instrument, that it was intended that the part of the one dying should belong to the others, neither shall it affect the mode of proceeding on any joint contract or judgment.

(2) (a) 1. Except as provided in paragraph (b) of this subsection, one (1) or more joint tenants of real property may partition their interest in the real property during their lifetime by deed or other instrument.

2. The deed or other instrument shall express the intent of the joint tenant to partition the joint tenant's interest in the real property and shall be recorded at the office of the county clerk in the county where the real property or any portion of the real property is located.

3. The partitioning shall be effective at the time the deed or other instrument is recorded.

(b) Residential real property that is owned exclusively by husband and wife as joint tenants with a right of survivorship and actually occupied by them as a principal residence shall not be partitioned as provided in paragraph (a) of this subsection.

(c) The deed or other instrument shall convert the partitioning joint tenant's interest in the real property into a tenancy in common with the remaining joint tenants. If there are two (2) or more nonpartitioning joint tenants, the interests of the nonpartitioning joint tenants in relation to each other shall be governed pursuant to the terms of the instrument creating the interest.

Section 3. KRS 394.610 is amended to read as follows:

(1) As used in this section, the "legal representative of a living person" includes the person's conservator, limited conservator, guardian, limited guardian, and attorney-in-fact.

(2) A ***living*** person, or the ***legal*** representative of ***a living***[~~an incapacitated or protected~~] person, who is an heir, next of kin, devisee, legatee, ***joint tenant,*** person succeeding to a disclaimed interest, beneficiary under a testamentary instrument, or appointee under a power of appointment exercised by a testamentary instrument, may disclaim in whole or in part the right of succession to any property or interest therein, including a future interest, by filing a written disclaimer under KRS 394.610 to 394.670. The right to disclaim shall survive the death of the person having it and may be exercised by the personal representative of such person's estate ***without authorization of the court having jurisdiction over the estate of the person***. The instrument shall***:***

(a)[~~(1)~~] Describe the property or interest disclaimed***;***[~~,~~]

(b)[~~(2)~~] Declare the disclaimer and extent thereof***;***[~~,~~] and

(c)[~~(3)~~]Be signed by the disclaimant.

(3) No disclaimer by a living person's legal representative, except for the person's attorney-in-fact, shall be made unless the court having jurisdiction of the estate of the disabled, incapacitated, or protected person has authorized the disclaimer. No disclaimer by the person's attorney-in-fact shall be made unless the instrument governing the attorney-in-fact's authority expressly authorizes a disclaimer.

HB 313, AN ACT relating to wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.090 is amended to read as follows:

A[~~Every~~] will shall ***not*** be revoked by the marriage of the person who made the will[~~, except:~~

~~(1) A will made in exercise of a power of appointment when the estate thereby appointed would not, in default of such appointment, pass to the heir, personal representative, or next of kin of the person who made the will;~~

~~(2) A will that expressly provides that it is intended that a subsequent marriage shall not revoke the will;~~

~~(3) A will that expressly provides for the person who later becomes the spouse of the deceased and is married to the testator on the date of death~~].

Section 2. KRS 394.080 is amended to read as follows:

No will or codicil, or any part thereof, shall be revoked, except:

(1)[~~ As provided in KRS 394.090;~~

~~(2)~~] By subsequent will or codicil;

(2)[~~(3)~~] By some writing declaring an intention to revoke the will or codicil, and executed in the manner in which a will is required to be executed; or

(3)[~~(4)~~] By the person who made the will, or some person in his presence and by his direction, cutting, tearing, burning, obliterating, canceling, or destroying the will or codicil, or the signature thereto, with the intent to revoke.

HB 314, AN ACT providing for the adoption of the Uniform TOD Security Registration Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

In Sections 1 to 12 of this Act, unless the context otherwise requires:

(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

(2) "Devisee" means any person designated in a will to receive a disposition of real or personal property.

(3) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(4) "Person" means an individual, a corporation, an organization, or other legal entity.

(5) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(6) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(7) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

(8) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

(9) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

(10) "Security account" means:

- *(a) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or*
- *(b) A cash balance or other property held for or due to the owner of a security as a replacement for or product of*

an account security, whether or not credited to the account before the owner's death.

(11) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

SECTION 2. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

Only individuals whose registration of a security shows sole ownership by one (1) individual or multiple ownership by two (2) or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, and not as tenants in common.

SECTION 3. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent, or its office making registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of the registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

SECTION 4. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

SECTION 5. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of a beneficiary.

SECTION 6. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then-surviving owners without the consent of the beneficiary.

SECTION 7. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

SECTION 8. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

(1) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by Sections 1 to 12 of this Act.

(2) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in Sections 1 to 12 of this Act.

(3) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with Section 7 of this Act and does so in good faith reliance:

   (a) On the registration;

   (b) On Sections 1 to 12 of this Act; and

   (c) On information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity.

The protections of Sections 1 to 12 of this Act do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under Sections 1 to 12 of this Act.

(4) The protection provided by Sections 1 to 12 of this Act to the registering entity of a security does not affect the rights

of the beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

SECTION 9. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

(1) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and Sections 1 to 12 of this Act and is not testamentary.

(2) Sections 1 to 12 of this Act does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this Commonwealth.

SECTION 10. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

(1) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests for registrations in beneficiary form, and for implementation of registrations in beneficiary form, including requests for cancellation of previously-registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of a named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one (1) or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(2) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(a) Sole owner-sole beneficiary: John S Brown TOD (or POD) John S Brown Jr.;

(b) Multiple owners-sole beneficiary: John S Brown Mary B Brown JT TEN TOD John S Brown Jr.; and

(c) Multiple owners-primary and secondary (substituted) beneficiaries: John S Brown Mary B Brown JT TEN TOD John S Brown Jr SUB BENE Peter Q Brown; or John S Brown Mary B Brown JT TEN TOD John S Brown Jr LDPS.

SECTION 11. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 12 of this Act shall be known as and may be cited as the Uniform TOD Security Registration Act.

(2) Sections 1 to 12 of this Act shall be liberally construed and applied to promote its underlying purposes and policy and to make the uniform the laws with respect to the subject of Sections 1 to 12 of this Act among states enacting it.

(3) Unless displaced by the particular provisions of Sections 1 to 12 of this Act, the principles of law and equity supplement its provisions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 292 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 12 of this Act applies to registrations of securities in beneficiary form made before or after the effective date of this Act, by decedents dying on or after the effective date of this Act.

Section 13. This Act takes effect August 1, 1998.

Motions, Petitions, and Communications (Continued)

Representative Kerr moved the adoption of the following **Legislative Citation No. 33**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Marie Rich upon the occasion of her 100th birthday. A lifetime native of Kenton County, this extraordinary lady graduated in a class of three from Independence High School in 1917. When she later became involved with the Cooperative Extension work in her area, she was chosen as one of three Kentucky citizens to petition for appropriation for the first agricultural extension work in the county and also served as the Bluegrass Director of the Cooperative Extension Service for two years. She was a founder of the first Homemakers Club in Kenton County in 1930, served two terms as its President and traveled all over Central Kentucky to organize groups in counties where there were none. Between the ages of 68 and 88, she organized and led senior citizen bus tours to places like Washington D. C., New York, Chicago and Canada and she also served as an election poll worker for over 20 years until retiring at the age of 90. In celebration of her 100th birthday, the entire membership joins Representative Thomas Kerr in commending this exceptional citizen of Kentucky for the spirit and vitality she has brought to the lives of all those touched by her presence and in extending to her best wishes on this meaningful occasion. **Legislative Citation No. 33** was adopted without objection.

Representative Long moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Long moved that he be recorded as voting "yea" on **HB 52**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative R. Adams moved that he be recorded as voting "yea" on **HB 52**. Agreed.

Representative Stein moved the adoption of the following **Legislative Citation No. 34**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Mildred Lockhart Dickinson devoted wife of the late James H. Dickinson; beloved mother of James Dickinson, John Rankin and Bobbie Lee Wilson; and cherished grandmother and great-grandmother. A faithful member of St. Patrick Episcopal Church, Millie Dickinson attended both the College of William and Mary and George Washington University. She diligently acted on behalf of women across this great Commonwealth, serving on the Kentucky Bicentennial Commission, the Kentucky's Film Commission, and as President of the Kentucky Democratic Women's Club where she received the club's highest honor, the Anne Shanks Bourne Award; as well as pioneering "Here's Millie," a radio program which focused on women and women's issues. The House of Representatives joins Representative Kathy Stein in paying tribute to this remarkable pioneer of social consciousness who worked with passion and dedication to improve the circumstances of her fellow citizens and whose legacy will continue to live on through those whose lives were deeply affected by her intelligent articulation of issues, her generous spirit and through her beloved family, who are offered sincerest condolences on this day. **Legislative Citation No. 34** was adopted without objection.

Representative Damron moved that **HB 376** be withdrawn. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative McKee moved that he be recorded as voting "yea" on **HB 240**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 1**, Representative Stine; **HB 37**, Representatives Wilkey, J. Adams, Pope, Maricle, Curd, Alexander, Heleringer, Walton, Burch, Deskins, Kerr, Vincent, Thomas, G. Graham, Collins, Bruce; **HB 52**, Representative P. Clark; **HB 74**, Representative Turner; **HB 118**, Representative Marzian; **HB 169**, Representative Napier; **HB 195, HB 318**, Representative Rader; **HB 240**, Representatives Stine, P. Clark, Horlander; **HB 248, HB 265**, Representative Colter; **HB 289**, Representatives Geveden, Marcotte; **HB 318**, Representative Bratcher; **HB 382**, Representative Wayne.

The following member requested that his name be withdrawn as co-sponsor of a Bill under rules previously suspended: **HB 227**, Representative Nunn.

Representative Stumbo moved that no further business be conducted on this day except for the filing of Floor Amendments. Agreed.

Representative Stumbo moved that when the House does adjourn, it does so by voice vote. Agreed. Representative Stumbo moved that when the House does adjourn, it does so until 9:30 a.m., January 23, 1998. Agreed.

Recess

Representative Stumbo moved that the House recess for ten minutes. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 7 to the Committee Substitute to **HB 142**, by Representative Riner:

On page 31, between lines 6 and 7, by inserting the following new sections:

"Section 19. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall forthwith notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source. The cabinet shall investigate the matter immediately and within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action which has been taken on the matter. If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall forthwith notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.

(2) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the

cabinet or its designated representative. The cabinet shall investigate reports of alleged dependency not later than forty-eight (48) hours after receipt of the report but need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of such reports. If the cabinet or its designated representative receives a report of abuse by other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall forthwith notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative may participate in an investigation of noncustodial abuse at the request of the local law enforcement agency or the Kentucky State Police.

(3) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(4) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exists reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(5) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include, but is not limited to, family service workers employed by the Cabinet for Human Resources and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.

(f) Multidisciplinary team members, and anyone invited by the multidisciplinary team to participate in a meeting, shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members, and others attending meetings, shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(6) Any person found to have abused or neglected a child under this section shall have the right to appeal that finding, and if upon appeal the finding is changed to "unfounded" or "unsubstantiated", the name of the person shall be totally expunged from the child abuse and adult central registry maintained by the cabinet. The right to appeal shall

extend to a positive determination made by the cabinet or any predecessor that may have had jurisdiction over the registry since its inception, and shall include any positive determination made before or after the effective date of this Act.

Section 20. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

(2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(3) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(4) All information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect, or abuse, provided that in such cases names of informants shall be withheld unless ordered by the court;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;

(e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;

(f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600; or

(g) Those persons so authorized by court order.

(5) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

(6) Notwithstanding any provision of this section to the contrary, any family member served by the cabinet who believes that his or her civil rights have been violated and the administrative appeals process has been unsatisfactory shall have the opportunity to waive confidentiality requirements of this section and file a grievance with the cabinet which shall be made available to any member of the General Assembly requesting a copy of the grievance.";

And by renumbering subsequent section accordingly.

Announcements

The following meetings were announced:

Western Kentucky Caucus, Room 111, upon adjournment; Northern Kentucky Caucus, Conference Room B, upon adjournment; Minority Caucus, Room 113, 8:30 a.m., January 23, 1998; Minority Caucus, one hour before convening in the future.

Adjournment

Representative Stumbo moved that the House adjourn until 9:30 a.m., January 23, 1998.

The motion that the House adjourn until 9:30 a.m., January 23, 1998 was adopted by voice vote.

FRIDAY, JANUARY 23, 1998

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Larry Cart, Whitley County.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Baugh, Clarke, Coleman, Deskins, G. Graham, Heleringer, Maricle, Miniard, and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 22, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 8 to the Committee Substitute to **HB 142**, by Representative Hogancamp:

On page 2, line 10, after the word, "***care***", By inserting the following: "***, which includes necessary food, clothing, shelter, and age-appropriate education,***"; and

On page 16, line, line 22, after the word, "***care***", By inserting the following: "***, which includes necessary food, clothing, shelter, and age-appropriate education,***".

Floor Amendment No. 1 to **HB 305**, by Representative Nunn:

On page 1, line 13, before the word "For" by inserting the words: "***Notwithstanding the provisions of subsection (1) of this section,***"; and on line 15, after the word "minimum" by inserting the following; "***not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203***"; and on line 15, by placing an opening bracket before and striking through the words: "fifty percent (50%) of the wage prescribed in this"; and by striking through lines 16, 17, 18, and 19; and on line 20, by placing a closing bracket after and striking through the words: "minimum hourly wage as required by this section".

Senate Message

Announcing passage of **SB 19, SB 26, SB 33, SB 36, SB 37, SB 43, SB 45, SB 55, SB 92, SB 114** and **SCR 2**. (Time: 9:40 a.m.)

Representative Murgatroyd moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Murgatroyd moved the adoption of the following **Legislative Citation No. 35**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby applauds the efforts of and offers its sincerest congratulations to the Beechwood High School Tigers for winning the Class A Football State Championship which represents the team's sixth title in seven years. This prestigious body recognizes and commends this outstanding team for demonstrating extraordinary determination and athletic ability and bringing honor and acclaim to both its school and community. The House of Representatives joins with Representative Richard Murgatroyd in honoring the members of the Beechwood Tigers for their many accomplishments and in extending best wishes for continued success in the future. **Legislative Citation No. 35** was adopted without objection.

Representative Arnold moved that the rules be suspended to grant floor privileges and to act upon a Resolution. Agreed.

Representative A. Arnold moved the adoption of the following **HR 52**:

HR 52, A RESOLUTION adjourning the House of Representatives in honor of Markeeta Blackburn Farris.

WHEREAS, Markeeta Blackburn Farris, a fourth grade teacher at Camargo Elementary School in Camargo, Montgomery County, Kentucky, has been selected as one of ten recipients, and the only Kentuckian, to receive the national State Farm Good

Neighbor Award for innovative teaching; and

WHEREAS, her successful accomplishments as an educator exemplifies her professionalism in the classroom, and being a recipient of this teaching award has enabled her to appear in a national advertisement that will demonstrate the importance of one of her lesson plans: Economics in America; this national advertisement will be published in the March issues of U.S. News and World Report, Readers' Digest, Smithsonian, and the Congressional Quarterly; and

WHEREAS, Markeeta Blackburn Farris has enriched the lives of many children through her outstanding vision and leadership in the spearheading of meaningful educational projects, and as a recipient of this award, she will receive $5,000 for donation to her favorite educational program, the Traveling Kentucky Program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud to honor Markeeta Blackburn Farris for her many accomplishments as an educator, and for the distinction she has brought to the Commonwealth of Kentucky. The House of Representatives congratulates her upon being a recipient of the national State Farm Good Neighbor Award for innovative teaching and wishes to her success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Markeeta Blackburn Farris.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Markeeta Blackburn Farris, Camargo Elementary School, 4307 Camargo Road, Mt. Sterling, Kentucky 40353.

There being no objection **HR 52** was adopted.

Introduction of Bills

HB 398, by Representatives Crall, Gooch, Brown, Bruce, Treesh, Ford, Vincent, Baugh, Rader, Hogancamp, Cox, Stine, Walton, D. D. Butler, and Gee: AN ACT relating to health insurance and declaring an emergency.

HB 399, by Representative Damron: AN ACT relating to electric cooperatives.

HB 400, by Representatives Haydon and Weaver: AN ACT relating to extraterritorial jurisdiction of planning units.

HB 401, by Representative Crimm: AN ACT relating to insurance.

HB 402, by Representative Crimm: AN ACT relating to insurance.

HB 403, by Representative Crimm: AN ACT relating to licensure of clinical exercise physiologists.

HB 404, by Representative Gray: AN ACT relating to municipal gas utilities, and declaring an emergency.

HB 405, by Representative Damron: AN ACT relating to the emergency management assistance compact.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 385, HB 387, HB 388, HB 389, HB 394**

Banking and Insurance: **HB 390**

Counties and Special Districts: **HB 384**

Education: **HB 386, HB 396, SB 5, SB 48**

Judiciary: **HR 54, HR 55**

Licensing and Occupations: **HB 395**

Natural Resources and Environment: **SB 59**

State Government: **HB 383, HB 391, HB 392, HB 393, SB 1, SB 93**

Tourism and Energy: **HB 397**

Transportation: **HJR 53, SB 20**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 52**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 287, HB 304, HB 382, HCR 9, HCR 10, HCR 32, HCR 45, HCR 46**

Cities: **HB 49**

Appropriations and Revenue: **HB 387, HB 388, HB 389**

Calendar

HB 305, HB 195, HB 248, HB 264, HB 265, HB 30, HB 315, HB 31, HB 45, HB 119, HB 122, HB 212, HB 231, HCR 14, HB 37, HB 54, HB 60, HB 61, HB 165, HB 174, HB 166, HB 313, and **HB 314** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 195**, by Representative Stacy:

On page 5, line 9, after the word "activities" and before the period "." insert "***or when the all-terrain vehicle is a motorcycle that is licensed and registered under KRS Chapters 186 and 186A and that is being operated on private property***".

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 201, HB 208, HB 54, HB 60, HB 195, HB 231, HB 248, HB 264, HB 313,** and **HB 314** have been posted for passage in the Orders of the Day for January 26, 1998.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 217, HB 45, HB 119, HB 122, HB 315**

Orders of the Day

HB 58, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of Floor Amendment No. 1 to **HB 58**. Agreed.

Representative Bruce moved that **HB 58**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See January 23, 1998 roll call on **HB 58** - Appendix.) **HB 58**, as amended, was passed and the title agreed to. Representative Bruce moved that the vote by which **HB 58**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 68** be recommitted to Appropriations and Revenue. Agreed.

HB 97, with Committee Substitute and Committee Amendment No. 1 Title attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walton moved the adoption of the Committee Substitute to **HB 97**. Agreed.

Representative Walton moved that **HB 97**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See January 23, 1998 roll call on **HB 97** - Appendix.) **HB 97**, by way of Committee Substitute, was passed. Representative Walton moved the adoption of the Committee Amendment No. 1 Title to the Committee Substitute to **HB 97**. Agreed; and the title was agreed to. Representative Walton moved that the vote by which **HB 97**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 190** be passed.

On the roll call the vote was: Yeas 87, Nays 0 (See January 23, 1998 roll call on **HB 190** - Appendix.) **HB 190** was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 190** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 256, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 256**. Agreed.

Representative Rasche moved that **HB 256**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0 (See January 23, 1998 roll call on **HB 256** - Appendix.) **HB 256**, by way of Committee Substitute, was passed. Representative Rasche moved the adoption of Floor Amendment No. 1 Title to the Committee Substitute to **HB 256**. Agreed; and the title was agreed to. Representative Rasche moved that the vote by which **HB 256**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 118** be reassigned to Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 406, by Representative Nunn: AN ACT relating to medical assistance.

HB 407, by Representatives Bowling, Geveden, Stumbo, and Burch: AN ACT relating to ownership and conveyance of property.

HB 408, by Representatives Hogancamp, Simpson, Kerr, Brandstetter, Stine, Cox, Treesh, Gooch, Walton, Reinhardt, Marcotte, Maricle, Vincent, Anderson, Riner, Cave, Rader, Colter, P. Clark, D. D. Butler, R. Adams, Haydon, Weaver, Wilkey, Sims, Thomas, Miller, Damron, Crall, Bratcher, Murgatroyd, Zimmerman, Bruce, Pope, and A. Arnold: AN ACT relating to abortion.

HB 409, by Representatives Ballard, Bruce, Gooch, Gray, Damron, Lee, Yonts, Gee, Stacy, J. Adams, Long, Napier, Haydon, and G. Graham: AN ACT relating to escheats.

HB 410, by Representatives Johns, L. Clark, Jenkins, Burch, Marzian, Bratcher, Jordan, Stein, Mason, Sims, and Riggs: AN ACT relating to warranties for new assistive devices.

HB 411, by Representative Gooch: AN ACT relating to vehicles.

HR 56, by Representative Hatcher: A RESOLUTION adjourning the House of Representatives in honor of the Reverend William T. Lee, Sr. upon the occasion of his imminent retirement.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Appropriations and Revenue: **HB 315**

Motions, Petitions and Communications (Continued)

Representative Yonts moved the adoption of the following **Legislative Citation No. 36**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Sarah Hansen and express deepest sympathy to all who share in the loss through the tragic and untimely passing of this young woman, beloved daughter of Allen and Julie Hansen and cherished sister of Robert Hansen. This amazing and well-regarded young Kentucky woman, an honor student, cheerleader, band member, and a leader in both her school and her church, was murdered on January 25, 1997, and lost on this earthly plane to all who loved her. The members of the House of Representatives join with Representative Brent Yonts in remembering her today with gratitude for her tender and remarkable presence, with sorrow for the brevity of her journey on this earth and with sincere and heartfelt condolences to her family and her friends. **Legislative Citation No. 36** was adopted without objection.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that his vote be changed from "nay" to "yea" on **HB 39**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 42**, Representative J. Arnold; **HB 58**, Representative Hoffman; **HB 106**, Representative Haydon; **HB 161**, Representative Riggs; **HB 169**, Representative Wayne; **HB 190**, Representative Brown; **HB 236**, Representative Riggs; **HB 389**, Representatives Vincent, Lee; **HB 394**, Representative Vincent; **HB 398**, Representative Crimm; **HB 408**, Representative Stewart.

The following member requested that his name be withdrawn as co-sponsor of a Bill: **HB 381**, Representative Crenshaw.

Announcements

The following meetings were announced:

Economic Development, January 26, 1998, upon adjournment.

Northern Kentucky Caucus, January 24, 1998, 10:00 a.m., Boone County Court House.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., January 26, 1998.

On the roll call the vote was **Yeas 75**–R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Bowling, Bratcher, Brown, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, Haydon, Hoffman, Hogancamp, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Nesler, Newsome, Palumbo, Polston, Pope, Rasche, Reinhardt, Richards, Riner, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Worthington, Yonts, Zimmerman. **Nays 4**--Crall, Nunn, Riggs, Stewart.

The motion to adjourn was adopted.

MONDAY, JANUARY 26, 1998

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Chuck Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bruce, D. D. Butler, and Hatcher.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 23, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 42**, **SB 60**, **SB 61**, **SB 65**, **SB 70**, **SB 85**, **SB 120**, and **SCR 3**. (Time: 4:10 p.m.)

Introduction of Bills

HB 412, by Representative Long: AN ACT relating to embalmers and funeral directors.

HB 413, by Representative Zimmerman: AN ACT relating to the regulation of trains' whistles.

HB 414, by Representative Gooch: AN ACT relating to insurance.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 407**

Appropriations and Revenue: **SB 19**

Banking and Insurance: **HB 401, HB 402, HB 409, SB 55**

Counties and Special Districts: **HB 400, SB 43, SB 45, SB 114**

Health and Welfare: **HB 398, HB 406, HB 410**

Judiciary: **HB 408, SB 36**

Labor and Industry: **SB 26**

Licensing and Occupations: **HB 403, SB 37**

State Government: **SB 33, SB 92, SCR 2**

Tourism and Energy: **HB 399, HB 404, HB 405**

Transportation: **HB 411**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 56**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 81, HB 88, HB 252, HB 293, HB 316, HB 318, HB 324, HB 325, HB 327**

Licensing and Occupations: **HB 395, HB 263**

Report of Committees

The Committee on Committees removed Representative Miller from the Committee on Counties and Special Districts and appointed him to the Committee on Transportation.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 61, HB 165, HB 166, HB 174,** and **HB 265** have been posted for passage in the Orders of the Day for January 27, 1998.

Floor Amendments

Floor Amendment No. 1 to **HB 173**, by Representative Treesh:

On page 15, after line 13, by inserting the following:

"Section 2. The provisions of paragraph (c) of subsection (10) of Section 1 of this Act shall apply to an unexpended and unobligated balance of contributions that are received by a candidate after the effective date of this Act.".

Floor Amendment No. 2 to **HB 173**, by Representative Treesh:

On page 14, line 22, after "***that***" by deleting "***the***" the first time it appears on that line and inserting in lieu thereof the following:

"***:***

1. If a candidate elects to dispose of the unexpended and unobligated balance of funds to all contributors on a pro rata basis, a contributor may execute a written release with the candidate relieving the candidate of the obligation to make a pro rata reimbursement to that contributor and the candidate may retain any pro rata share of funds for which a written release is executed and may use those funds in a future campaign for the same office for which the campaign account was established; and

2. The".

Floor Amendment No. 3 to **HB 173**, by Representative Treesh:

On page 14, line 22, after "***that***" by deleting "***the***" the first time it appears on that line and inserting in lieu thereof the following:

"***:***

1. If a candidate elects to dispose of the unexpended and unobligated balance of funds to all contributors on a pro rata basis, the candidate shall not be required to make a pro rata reimbursement of a contribution received from a contributor who, at the time the contribution was made, was not registered as a member of the same political party as the candidate before the candidate's change of political party affiliations that necessitated the disposal of the unexpended and unobligated campaign funds; and

2. The".

Orders of the Day

Representative Stumbo moved that **HB 142** be recommitted to Judiciary. Agreed.

HB 63, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maricle moved the adoption of Committee Amendment No. 1 to **HB 63**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 1 to **HB 63**. Rejected.

Representative Maricle moved that **HB 63**, as amended, be passed.

Representative Cave moved that the vote by which Floor Amendment No. 1 to **HB 63** was rejected be reconsidered. The motion to reconsider the vote by which Floor Amendment No. 1 to **HB 63** was rejected was adopted. (See January 26, 1998 roll call on the motion to reconsider the vote on Floor Amendment No. 1 to **HB 63** - Appendix.)

Representative Riner moved the adoption of Floor Amendment No. 1 to **HB 63**. Floor Amendment No. 1 to **HB 63** was rejected. (See January 26, 1998 roll call on Floor Amendment No. 1 to **HB 63** - Appendix.)

Representative Maricle moved that **HB 63**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 5 (See January 26, 1998 roll call on **HB 63** - Appendix.) **HB 63**, as amended, was passed and the title agreed to. Representative Maricle moved that the vote by which **HB 63**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 167 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 167** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See January 26, 1998 roll call on **HB 167** - Appendix.) **HB 167** was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 167** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 173 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 173** be passed.

Representative Treesh moved that **HB 173** be laid on the Clerk's Desk. The motion that **HB 173** be laid on the Clerk's Desk was adopted. (See January 26, 1998 roll call on motion to lay **HB 173** on the Clerk's Desk - Appendix)

HB 151 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative G. Graham moved that **HB 151** be passed.

On the roll call the vote was: Yeas 89, Nays 3 (See January 26 , 1998 roll call on **HB 151** - Appendix.) **HB 151** was passed and the title agreed to. Representative G. Graham moved that the vote by which **HB 151** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 54, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 54**. Agreed.

Representative Damron moved that **HB 54**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 1 (See January 26, 1998 roll call on **HB 54** - Appendix.) **HB 54**, by way of Committee Substitute, was passed and the title agreed to. Representative Damron moved that the vote by which **HB 54**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 201 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 201** be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See January 26 , 1998 roll call on **HB 201** - Appendix.) **HB 201** was passed and the title agreed to. Representative Long moved that the vote by which **HB 201** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 202** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See January 26 , 1998 roll call on **HB 202** - Appendix.) **HB 202** was passed and the title agreed to. Representative Long moved that the vote by which **HB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 60, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 60**. Agreed.

Representative Clarke moved that **HB 60**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See January 26, 1998 roll call on **HB 60** - Appendix.) **HB 60**, by way of Committee Substitute, was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 60**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 195, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 195**. Agreed.

Representative Stacy moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 195**. Agreed.

Representative Stacy moved that **HB 195**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 3 (See January 26, 1998 roll call on **HB 195** - Appendix.) **HB 195**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Stacy moved that the vote by which **HB 195**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 248 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved that **HB 248** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See January 26 , 1998 roll call on **HB 248** - Appendix.) **HB 248** was passed and the title agreed to. Representative Mason moved that the vote by which **HB 248** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 329** be reassigned to the Committee on Agriculture and Small Business. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 415, by Representative Riggs: AN ACT relating to insurance.

HB 416, by Representative Riggs: AN ACT relating to retirement.

HB 417, by Representative Clarke: AN ACT relating to Kentucky Board of Education administrative regulations.

HB 418, by Representative Moberly: AN ACT relating to school employees.

HB 419, by Representative Long: AN ACT relating to revenue and taxation and declaring an emergency.

HB 420, by Representative Heleringer: AN ACT relating to utilities.

HB 421, by Representative Heleringer: AN ACT relating to waterworks in counties with cities of the first class.

HB 422, by Representatives Long, G. Graham, R. Adams, Barrows, Coleman and Hoffman: AN ACT relating to retirement.

HB 423, by Representative Scott: AN ACT relating to disaster and emergency response activity.

HR 57, by Representatives Barrows and Long: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mattie Fitzgerald Graham.

HJR 58, by Representative Collins: A JOINT RESOLUTION naming the bridge on KY 40 between Paintsville and Salyersville over State Road Fork, one mile southwest of KY 580, the "Marshall Ealey Bridge".

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 142**

Tourism and Energy: **HB 397**

Agriculture and Small Business: **HB 258, HB 101**

Motions, Petitions and Communications (Continued)

Representative Barrows moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Barrows moved the adoption of the following **HR 57**:

HR 57, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mattie Fitzgerald Graham.

With deepest respect and admiration, we pay homage and tribute to Mattie Fitzgerald Graham, and we pause in silent reverence for her soul.

WHEREAS, Mattie Fitzgerald Graham, a native of Owen County, Kentucky, and longtime resident of Franklin County, Kentucky, traversed these earthly bounds on January 23, 1998; and

WHEREAS, Mattie Fitzgerald Graham was the loving daughter of the late George and Annie Belle Barr Fitzgerald; she was the devoted wife of the late Lew Graham; she was the adored mother of two sons, Ray Graham, who preceded her in death, and Representative H.G. "Gippy" Graham; and three daughters, Clara Belle Perkins, Aline Keene and Wilma Montgomery; and she was the proud grandmother of eight grandchildren; thirteen great-grandchildren; and seven great-great-grandchildren; and

WHEREAS, Mattie Fitzgerald Graham was retired from Schenley Distillers; and she was a former employee of the Department of Revenue and Personnel; and

WHEREAS, Mattie Fitzgerald Graham was a devout, and the oldest, member of Thornhill Baptist Church; and she was a member of the Frankfort Women's Club and Frankfort Senior Citizens; and

WHEREAS, all who knew and admired Mattie Fitzgerald Graham will grieve over their loss, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Mattie Fitzgerald Graham and extends to her family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Mattie Fitzgerald Graham.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable H.G. "Gippy" Graham, 1310 Louisville, Road, Frankfort, Kentucky 40601.

There being no objection **HR 57** was adopted. (See January 26, 1998 roll call to co-sponsor **HR 57** - Appendix.)

Representative Long moved the adoption of the following **Legislative Citation No. 37**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn in memory of Mattie Fitzgerald Graham. For inasmuch as death, like life, is a gift from God, it is inevitable that this honoree is destined to sit at the foot of the cross for her phenomenal deeds throughout her lifetime and surely has earned the jewel in her sacred crown. THEREFORE, this prestigious body doth hereby recognize the lady as an individual dedicated to the Frankfort community and the Thornhill Baptist Church at which she was the oldest member; always the loving mother who wisely reared her exceptional son to eventually serve several distinguished terms of office in the Kentucky House of Representatives; said recipient was an inspiration and a beacon of unselfish acts and love for her fellowman. Members of the House of Representatives reach out to the Graham family, children and friends, offering sincere condolences and adjourning January 26, 1998 in memory of Mattie Fitzgerald Graham. **Legislative Citation No. 37** was adopted without objection.

Representative Maricle moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Maricle moved the adoption of the following **HR 51**:

HR 51, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Michael Laswell.

With deepest respect and admiration, we pay homage and tribute to Michael Laswell.

WHEREAS, Michael Laswell was born on December 3, 1971, a native of Louisville, Jefferson County, Kentucky, and longtime resident of Mt. Washington, Bullitt County, Kentucky, and met a premature and tragic death on January 4, 1998; and

WHEREAS, Michael Laswell was the loving son of Leonard and Mary Laswell; and

WHEREAS, Michael Laswell was a graduate of the University of Louisville where he received his bachelor degrees in graphic design and art history, and at the time of his passing, he had completed all the requirements for a master's degree except his theses; and

WHEREAS, Michael Laswell was employed by Armstrong Laboratory; he was a former director of the Art Student League gallery; and he was also a talented artist whose creativity leaned toward surrealism; and

WHEREAS, although Michael Laswell suffered throughout his life from osteogenesis imperfecta, or brittle-bone disease, he will best be remembered as having many friends and a wonderful attitude toward life that afforded him the opportunity to make people laugh; and

WHEREAS, a life spent worthily should be measured by deeds, not years, and through his compassion, self-sacrifice, enthusiasm and genuine love and concern for his fellow man, Michael Laswell is worthy of the highest commendation; and

WHEREAS, all who knew and admired Michael Laswell will grieve over their loss, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby extend its profound sense of sorrow upon the passing of Michael Laswell, and extends to his family our most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Michael Laswell.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Leonard Laswell, 165 Branham Way, Mt. Washington, Kentucky 40047.

There being no objection **HR 51** was adopted.

Representative Cave moved the adoption of the following **Legislative Citation No. 38**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in memory of Larry Gilbert. The House of Representatives joins Representative Stan Cave in expressing its profound sympathy to all who share in the loss on the passing of this nationally renown golfer from Fayette County, who was the beloved husband of Brenda Plyant Gilbert and the cherished father of Lawrence Allen Gilbert, Jr. and Christopher Bryan Gilbert. Larry Gilbert won three national championship pro titles as well as many state and regional titles and served as the head golf pro at Champions Golf Club. He joined the Senior Professional Golfers Tour in 1993 and came away with the Senior Players Championship in 1997. This extraordinary athlete brought well-deserved attention to his community through his skill as a golfer and his love of the sport. We remember his generous and remarkable contributions to the Commonwealth of Kentucky on this day as well as the valiance of his fight against cancer which serves as an inspiration to us all. **Legislative Citation No. 38** was adopted without objection.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 39**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest condolences and genuine expressions of sympathy for the grievous death of Carlos Eugene "Huck" Lafferty. Members of the House of Representatives do honor said individual and his devastated family and do express deepest sympathy to all who share in the loss of this fine Kentuckian, adored son of the late Ezra and Rosemary Thornsberry Lafferty; beloved husband of Kathryn Fannin Lafferty;

devoted father of Brian Keith Lafferty, Dwayne Carlos Lafferty and Kimberly Sturgill; adored grandfather of William Tyler Sturgill; and cherished brother of Marina Fehrenbach, Marlyn Patton, Dema Lafferty, Donald, Paul, Ralph and Anthony Lafferty. This prestigious body shares in the tragedy suffered by both family and the community of Martin, Kentucky, where "Huck" Lafferty was a respected citizen; THEREFORE, this honorable body joins Representative Greg Stumbo in offering the hope that "Huck" Lafferty is now serene beyond the cares and worries of this world and hereby adjourns this twenty-sixth day of January, nineteen hundred and ninety-eight in honor of this extraordinary man whose memory is held tenderly in the hearts of so many. **Legislative Citation No. 39** was adopted without objection.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 37**, Representative Napier; **HB 127**, Representatives A. Arnold, Treesh; **HB 195**, Representative Colter; **HB 305**, Representative P. Clark; **HB 312**, Representative Callahan; **HB 386**, Representative Pope; **HB 397**, Representatives R. Adams, McKee, Brandstetter; **HB 408**, Representatives Wayne, Callahan.

Floor Amendments (Continued)

Floor Amendment No. 4 to **HB 173**, by Representative Ford:

On page 14, lines 17 to 25, by deleting all language on those lines and inserting in lieu thereof "***return the portion of funds in the campaign account that were contributed by a political party to the political party in an amount equal to the percentage of the total amount of funds in the campaign account which have been expended from the campaign account by the time the candidate changes political party affiliations.***".

Motions, Petitions and Communications (Continued)

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Walton moved that he be recorded as voting "yea" on **HB 54**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Barrows moved that he be recorded as voting "yea" on **HB 54** and **HB 109**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Wilkey moved that he be recorded as voting "yea" on **HB 190, HB 256, HB 58** and **HB 97**. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Deskins moved that he be recorded as voting "yea" on **HB 58, HB 97, HB 190, HB 256, HR 52,** and **HB 135**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that he be recorded as voting "yea" on **HB 110, HB 58, HB 97, HB 190, HB 256, HB 52, HB 39, HB 109, HB 135,** and **HB 240**. Agreed. Representative Baugh moved that he be recorded as voting "nay" on **HB 87**. Agreed.

Announcements

The following meetings were announced:

Majority Caucus, 5:00 p.m., Reception, Democratic Headquarters; Economic Development, Room 129, upon adjournment, January 26, 1998; Health and Welfare, 8:00 a.m., January 27, 1998; Natural Resources and Environment, 12 Noon, January 27, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 27, 1998.

On the roll call the vote was **Yeas 83**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, D. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Hoover, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Miniard, Moberly, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 4**--Crall, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

TUESDAY, JANUARY 27, 1998

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Newsome.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 26, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 63, SB 147, SB 160, SB 163**. (Time: 2:10 p.m.)

Introduction of Bills

HB 424, by Representative Jenkins and Jordan: AN ACT relating to recycling in school districts.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SCR 3**

Appropriations and Revenue: **HB 419**

Banking and Insurance: **HB 414, HB 415**

Education: **HB 417, HB 418**

Health and Welfare: **HB 412, SB 60**

Judiciary: **SB 61**

Licensing and Occupations: **SB 65, SB 70, SB 120**

Natural Resources and Environment: **SB 42**

State Government: **HB 416, HB 422, HB 423**

Tourism and Energy: **HB 420, HB 421**

Transportation: **HB 413, HJR 58, SB 85**

Report of Committees

The Committee on Health and Welfare reported **HB 159,** with Committee Substitute and Committee Amendment attached thereto, **HB 160,** with Committee Substitute attached thereto, and **HB 161,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 159, AN ACT relating to child support and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by KRS 403.212, to withhold support from the income of the obligor.

(7) "Initiating state" means a state ***from***[~~in~~] which a proceeding ***is forwarded or in which a proceeding is filed for forwarding to a responding state*** under this chapter or a law ***or procedure*** substantially similar to KRS 407.5101 to 407.5902; the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act[~~ is filed for forwarding to a responding state~~].

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

- (a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
- (b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
- (c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

- (a) Who or is alleged to owe a duty of support;
- (b) Who is alleged but has not been adjudicated to be a parent of a child; or
- (c) Who is liable under a support order.

(14) "Register" means to file a support order or judgment determining parentage with the Cabinet for Human Resources.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state ***in***[~~to~~] which a proceeding is ***filed or to which a proceeding is*** forwarded ***for filing from an initiating state*** under this chapter or a law ***or procedure*** substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia,[~~ the Commonwealth of~~] Puerto Rico, ***the United States Virgin Islands,*** or any territory or insular possession subject to the jurisdiction of the United States. The term[~~ "state"~~] includes***:***

- ***(a)*** Indian tribe***;*** and[~~ includes~~]
- ***(b)*** A foreign jurisdiction that has ***enacted a law or*** established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter***, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act***.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

- (a) Enforcement of support orders or laws relating to the duty of support;
- (b) Establishment or modification of child support;
- (c) Determination of parentage; or

(d) To locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 2. KRS 407.5205 is amended to read as follows:

(1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Until ***all of the parties who are individuals have***[~~each individual party has~~] filed written ***consents***[~~consent~~] with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to KRS 407.5101 to 407.5902.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to KRS 407.5101 to 407.5902, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(a) Enforce the order that was modified as to amounts accruing before the modification;

(b) Enforce nonmodifiable aspects of that order; and

(c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to KRS 407.5101 to 407.5902.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Section 3. KRS 407.5207 is amended to read as follows:

(1) If a proceeding is brought under ***this chapter and only one (1) tribunal has issued a child support order, the order of that tribunal controls and shall be recognized.***

(2) If a proceeding is brought under this chapter and two (2) or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(a) If only one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and shall be recognized.

(b) If more than one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and shall be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be recognized.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and shall be recognized.

(3) If two (2) or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and shall be recognized under subsection (2) of this section. The request shall be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.[~~KRS 407.5101 to 407.5902, and one (1) or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:~~]

~~(a) If only one (1) tribunal has issued a child support order, the order of that tribunal must be recognized.~~

~~(b) If two (2) or more tribunals have issued child support orders for the same obligor and child, and only one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the order of that tribunal must be recognized.~~

~~(c) If two (2) or more tribunals have issued child support orders for the same obligor and child, and more than one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.~~

~~(d) If two (2) or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the tribunal of this state may issue a child support order, which must be recognized.~~]

(4)[~~(2)~~] The tribunal which[~~ has~~] issued ***the controlling***[~~an~~] order[~~ recognized~~] under subsection (1)***, (2), or (3)*** of this section is the tribunal ***that has***[~~having~~] continuing, exclusive jurisdiction ***under Section 2 of this Act***.

(5) A tribunal of this state which determines by order the identity of the controlling order under subsection (2)(a) or (2)(b) of this section or which issues a new controlling order under subsection (2)(c) of this section shall state in that order the basis upon which the tribunal made its determination.

(6) Within thirty (30) days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Section 4. KRS 407.5304 is amended to read as follows:

(1) Upon the filing of a petition authorized by KRS 407.5101 to 407.5902, an initiating tribunal of this state shall forward three (3) copies of the petition and its accompanying documents:

(a)[~~(1)~~] To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b)[~~(2)~~] If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, a tribunal of this state may issue a certificate or other document and make findings required by law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Section 5. KRS 407.5305 is amended to read as follows:

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to KRS 407.5301(3), it shall cause the petition or pleading to be filed and notify the petitioner[~~ by certified mail, return receipt requested,~~] where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one (1) or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant or writ of arrest for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant or writ of arrest in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorney's fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under KRS 407.5101 to 407.5902, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under KRS 407.5101 to 407.5902 upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under KRS 407.5101 to 407.5902, the tribunal shall send a copy of the order by certified mail, return receipt requested, to the petitioner and the respondent and to the initiating tribunal, if any.

Section 6. KRS 407.5307 is amended to read as follows:

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from initiating, responding, or registering tribunal, send a copy of the notice[~~ by certified mail~~] to the petitioner;

(e) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication[~~ by certified mail~~] to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) KRS 407.5101 to 407.5902 does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Section 7. KRS 407.5501 is amended to read as follows:

(1) An income-withholding order issued in another state may be sent[~~ by first class mail~~] to the person or entity defined as the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of ***an income withholding***[~~ the~~] order, the ***obligor's*** employer shall:

(a) Treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;

(b) Immediately provide a copy of the order to the obligor; and

(c) ***Except as otherwise provided in subsection (1)(d) of this section and Section 8 of this Act, the employer shall withhold and*** distribute the funds as directed in the withholding order ***by complying with terms of the order which specify:***

1. The duration and amount of periodic payments of current child support, stated as a sum certain;

2. The person or agency designated to receive payments and the address to which the payments are to be forwarded;

3. Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

4. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

5. The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(d) An employer shall comply with the law of the state of the obligor's principle place of employment for withholding from income with respect to:

1. The employer's fee for processing an income withholding order;

2. The maximum amount permitted to be withheld from the obligor's income; and

3. The times within which the employer shall implement the withholding order and forward the child support payment.

(2) An obligor may contest the validity or enforcement of an income-withholding order issued in another state ***and received directly by an employer in this state*** in the same manner as if the order had been issued by a tribunal of this state. KRS

407.5604 applies to the contest.

(3) The obligor shall give notice of the contest to***:***

(a) ***A***~~[any]~~ support enforcement agency providing services to the obligee***;***~~[and to:]~~

(b) Each employer that has directly received an income withholding order;

(c)~~[(a)]~~The person or agency designated to receive payments in the income-withholding order; or

(d)~~[(b)]~~ If no person or agency is designated, ***to*** the obligee.

SECTION 8. A NEW SECTION OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

If an obligor's employer receives multiple income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

SECTION 9. A NEW SECTION OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

An employer who complies with an income withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 10. A NEW SECTION OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

An employer who willfully fails to comply with an income withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Section 11. KRS 407.5605 is amended to read as follows:

(1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party.~~[Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state.]~~ The notice ***shall***~~[must]~~ be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice ***shall***~~[must]~~ inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order shall be requested within twenty (20) days~~[after the date of mailing or personal service]~~ of the notice;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted***;*** and

(d) Of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to KRS 403.215 or KRS 405.465.

Section 12. KRS 407.5606 is amended to read as follows:

(1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty (20) days after~~[the date of mailing or personal service of]~~ notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to KRS 407.5607.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties~~[by certified mail, return receipt requested,]~~ of the date, time, and place of the hearing.

Section 13. KRS 407.5611 is amended to read as follows:

(1) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if ***Section 14 of this Act does not apply and if***~~[,]~~ after notice and hearing~~[,]~~ it finds that:

(a) The following requirements are met:

1. The child, the individual obligee, and the obligor do not reside in the issuing state;

2. A petitioner who is a nonresident of this state seeks modification; and

3. The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) [~~An individual party or~~]The child ***or a party who is an individual,*** is subject to the personal jurisdiction of the tribunal ***of this state*** and all of the[~~ individual~~] parties ***who are individuals*** have filed[~~ a~~] written consent ***with***[~~in~~] the issuing tribunal ***for***[~~providing that~~] a tribunal of this state ***to***[~~may~~] modify the support order and assume continuing, exclusive jurisdiction over the order. ***However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this state is required for the tribunal to assume jurisdiction to modify the child support order.***

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(5) ***If two (2) or more tribunals have issued child support orders for the same obligor and child, the order that controls and shall be recognized under Section 3 of this Act establishes the aspects of the support orders which are nonmodifiable.***

(6) Within thirty (30) days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal ***that***[~~which~~] had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows ***the***[~~that~~] earlier order has been registered. ***A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.***

SECTION 14. A NEW SECTION OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of KRS 407.5101 to 407.5209, KRS 407.5601 to Section 14 of this Act, and the procedural and substantive law of the state to the proceeding for enforcement or modification. KRS 407.5301 to Section 10 of this Act and KRS 407.5701 to 407.5802 do not apply.

Section 15. Section 65 of 1996 Kentucky Acts Chapter 365 is hereby repealed and this section is enacted in lieu thereof. Whereas adoption of the Uniform Interstate Family Support Act, with amendments adopted before January 1, 1998, by the National Conference of Commissioners on Uniform State Laws, is a necessary condition for continued receipt of certain federal funds, an emergency is declared to exist and the following provisions take effect upon the passage and approval of this Act by the Governor or upon this Act's otherwise becoming a law:

(1) This Act;

(2) Those sections of Sections 13 to 63 of 1996 Kentucky Acts Chapter 365 not amended or not repealed and reenacted by this Act; and

(3) Section 64 of 1996 Kentucky Acts Chapter 365.

The Committee Substitute to **HB 159** is as follows:

AN ACT relating to child support and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as defined by KRS 403.212, to withhold support from the income of the obligor.

(7) "Initiating state" means a state ***from***[~~in~~] which a proceeding ***is forwarded or in which a proceeding is filed for forwarding to a responding state*** under this chapter or a law ***or procedure*** substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act[~~ is filed for forwarding to a responding state~~].

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

- (a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
- (b) A state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
- (c) An individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

- (a) Who or is alleged to owe a duty of support;
- (b) Who is alleged but has not been adjudicated to be a parent of a child; or
- (c) Who is liable under a support order.

(14) "Register" means to file a support order or judgment determining parentage with the Cabinet for Human Resources.

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state ***in***[~~to~~] which a proceeding is ***filed or to which a proceeding is*** forwarded ***for filing from an initiating state*** under this chapter or a law ***or procedure*** substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia,[~~ the Commonwealth of~~] Puerto Rico, ***the United States Virgin Islands,*** or any territory or insular possession subject to the jurisdiction of the United States. The term[~~ "state"~~] includes***:***

- ***(a)*** Indian tribe***;*** and[~~ includes~~]
- ***(b)*** A foreign jurisdiction that has ***enacted a law or*** established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter***, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act***.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

- (a) Enforcement of support orders or laws relating to the duty of support;
- (b) Establishment or modification of child support;
- (c) Determination of parentage; or
- (d) To locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 2. KRS 407.5205 is amended to read as follows:

(1) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

- (a) As long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
- (b) Until ***all of the parties who are individuals have***~~[each individual party has]~~ filed written ***consents***~~[consent]~~ with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to KRS 407.5101 to 407.5902.

(3) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to KRS 407.5101 to 407.5902, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

- (a) Enforce the order that was modified as to amounts accruing before the modification;
- (b) Enforce nonmodifiable aspects of that order; and
- (c) Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to KRS 407.5101 to 407.5902.

(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(6) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Section 3. KRS 407.5207 is amended to read as follows:

(1) If a proceeding is brought under ***this chapter and only one (1) tribunal has issued a child support order, the order of that tribunal controls and shall be recognized.***

(2) If a proceeding is brought under KRS 407.5101 to 407.5902 and two (2) or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

- ***(a) If only one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the order of that tribunal controls and shall be recognized.***
- ***(b) If more than one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, an order issued by a tribunal in the current home state of the child controls and shall be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be recognized.***
- ***(c) If none of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the tribunal of this state having jurisdiction over the parties shall issue a child support order, which controls and shall be recognized.***

(3) If two (2) or more child support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this state, a party may request a tribunal of this state to determine which order controls and shall be recognized under subsection (2) of this section. The request shall be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.~~[KRS 407.5101 to 407.5902, and one (1) or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:~~

- ~~(a) If only one (1) tribunal has issued a child support order, the order of that tribunal must be recognized.~~
- ~~(b) If two (2) or more tribunals have issued child support orders for the same obligor and child, and only one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the order of that tribunal must be recognized.~~
- ~~(c) If two (2) or more tribunals have issued child support orders for the same obligor and child, and more than one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, an order~~

~~issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.~~

~~(d) If two (2) or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the tribunal of this state may issue a child support order, which must be recognized.~~]

(4)[~~(2)~~] The tribunal ***that***[~~which has~~] issued ***the controlling***[~~an~~] order[~~ recognized~~] under subsection (1)***, (2), or (3)*** of this section is the tribunal ***that has***[~~having~~] continuing, exclusive jurisdiction ***under Section 2 of this Act.***

(5) A tribunal of this state that determines by order the identity of the controlling order under subsection (2)(a) or (2)(b) of this section or that issues a new controlling order under subsection (2)(c) of this section shall state in that order the basis upon which the tribunal made its determination.

(6) Within thirty (30) days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

Section 4. KRS 407.5304 is amended to read as follows:

(1) Upon the filing of a petition authorized by KRS 407.5101 to 407.5902, an initiating tribunal of this state shall forward three (3) copies of the petition and its accompanying documents:

(a)[~~(1)~~] To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b)[~~(2)~~] If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act, a tribunal of this state may issue a certificate or other document and make findings required by law of the responding state. If the responding state is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding state.

Section 5. KRS 407.5305 is amended to read as follows:

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to KRS 407.5301(3), it shall cause the petition or pleading to be filed and notify the petitioner[~~ by certified mail, return receipt requested,~~] where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do one (1) or more of the following:

(a) Issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant or writ of arrest for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant or writ of arrest in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorney's fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under KRS 407.5101 to 407.5902, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under KRS 407.5101 to 407.5902 upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under KRS 407.5101 to 407.5902, the tribunal shall send a copy of the order by certified mail, return receipt requested, to the petitioner and the respondent and to the initiating tribunal, if

any.

Section 6. KRS 407.5306 is amended to read as follows:

If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner~~[by certified mail, return receipt requested,]~~ where and when the pleading was sent.

Section 7. KRS 407.5307 is amended to read as follows:

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

- (a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;
- (b) Request an appropriate tribunal to set a date, time, and place for a hearing;
- (c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
- (d) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from initiating, responding, or registering tribunal, send a copy of the notice~~[by certified mail]~~ to the petitioner;
- (e) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication~~[by certified mail]~~ to the petitioner; and
- (f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) KRS 407.5101 to 407.5902 does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Section 8. KRS 407.5501 is amended to read as follows:

(1) An income-withholding order issued in another state may be sent~~[by first class mail]~~ to the person or entity defined as the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.~~[Upon receipt of the order, the employer shall:~~

- ~~(a) Treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;~~
- ~~(b) Immediately provide a copy of the order to the obligor; and~~
- ~~(c) distribute the funds as directed in the withholding order .~~

~~(2) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. KRS 407.5604 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:~~

- ~~(a) The person or agency designated to receive payments in the income-withholding order; or~~
- ~~(b) If no person or agency is designated, the obligee.~~]

SECTION 9. A NEW SECTION OF KRS 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 407.5502:

(1) Upon receipt of an income-withholding order, the obligator's employer shall immediately provide a copy of an order to the obligor.

(2) The employer shall treat an income-withholding order that has been issued in another state and that appears regular on its face as if it had been issued by a tribunal of this state.

(3) Except as otherwise provided in subsection (4) of this section and Section 10 of this Act, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order terms that specify:

- ***(a) The duration and amount of periodic payments of current child support, stated as a sum certain;***
- ***(b) The person or agency designated to receive payments and the address to which the payments are to be forwarded;***
- ***(c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;***
- ***(d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and***

(e) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) The employer's fee for processing an income-withholding order;

(b) The maximum amount permitted to be withheld from the obligor's income; and

(c) The times within which the employer must implement the withholding order and forward the child support payment.

SECTION 10. A NEW SECTION OF KRS 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 407.5503:

If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

SECTION 11. A NEW SECTION OF KRS CHAPTER 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 407.5504:

An employer who complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 12. A NEW SECTION OF KRS 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 407.5505:

An employer who willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

SECTION 13. A NEW SECTION OF KRS CHAPTER 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 407.5506:

(1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state in the same manner as if the order had been issued by a tribunal of this state. KRS 407.5604 applies to the contest.

(2) The obligor shall give notice of the contest to:

(a) A support enforcement agency providing services to the obligee;

(b) Each employer that has directly received an income-withholding order; and

(c) The person or agency designated to receive payments in the income-withholding order, or, if no person or agency is designated, the obligee.

Section 14. KRS 407.5502 is repealed, reenacted, and renumbered as KRS 407.5507 to read as follows:

(1) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to KRS 407.5101 to 407.5902.

Section 15. KRS 407.5605 is amended to read as follows:

(1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party.[~~Notice must be given by certified or registered mail or by any means of personal service authorized by the law of this state.~~] The notice ***shall***[~~must~~] be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice ***shall***[~~must~~] inform the nonregistering party:

(a) That a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order shall be requested within twenty (20) days[~~after the date of mailing or personal service~~] of the notice;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(d) Of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to KRS 403.215 or KRS 405.465.

Section 16. KRS 407.5606 is amended to read as follows:

(1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty (20) days after~~[the date of mailing or personal service of]~~ notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to KRS 407.5607.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties~~[by certified mail, return receipt requested,]~~ of the date, time, and place of the hearing.

Section 17. KRS 407.5611 is amended to read as follows:

(1) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if ***Section 18 of this Act does not apply and if***~~[,]~~ after notice and hearing~~[,]~~ it finds that:

(a) The following requirements are met:

1. The child, the individual obligee, and the obligor do not reside in the issuing state;

2. A petitioner who is a nonresident of this state seeks modification; and

3. The respondent is subject to the personal jurisdiction of the tribunal of this state; or

(b) ~~[An individual party or]~~The child***, or a party who is an individual,*** is subject to the personal jurisdiction of the tribunal ***of this state*** and all of the~~[individual]~~ parties ***who are individuals*** have filed~~[a]~~ written consent ***with***~~[in]~~ the issuing tribunal ***for***~~[providing that]~~ a tribunal of this state ***to***~~[may]~~ modify the support order and assume continuing, exclusive jurisdiction over the order. ***However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this chapter, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.***

(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state. ***If two (2) or more tribunals have issued child support orders for the same obligor and child, the order that controls and shall be recognized under Section 3 of this Act establishes the nonmodifiable aspects of the support orders.***

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

~~[(5) Within thirty (30) days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.]~~

SECTION 18. A NEW SECTION OF KRS CHAPTER 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND BE NUMBERED AS KRS 407.5613:

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of KRS 407.5101 to 407.5209, KRS 407.5601 to 407.5614, and the procedural and substantive law of the state to the proceeding for enforcement or modification. KRS 407.5301 to 407.5507 and KRS 407.5701 to 407.5802 do not apply.

SECTION 19. A NEW SECTION OF KRS CHAPTER 407.5101 TO 407.5902 IS CREATED TO READ AS FOLLOWS AND TO BE NUMBERED AS KRS 407.5614:

Within thirty (30) days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that the earlier order has been registered. A party who obtains the order and fails to

file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

Section 20. Section 65 of 1996 Kentucky Acts Chapter 365 is hereby repealed and this section is enacted in lieu thereof. Whereas adoption of the Uniform Interstate Family Support Act, with amendments adopted before January 1, 1998, by the National Conference of Commissioners on Uniform State Laws, is a necessary condition for continued receipt of certain federal funds, an emergency is declared to exist and the following provisions take effect upon the passage and approval of this Act by the Governor or upon this Act's otherwise becoming a law:

(1) This Act;

(2) Those sections of Sections 13 to 63 of 1996 Kentucky Acts Chapter 365 not amended or not repealed and reenacted by this Act; and

(3) Section 64 of 1996 Kentucky Acts Chapter 365.

The Committee Amendment No. 1 to **HB 159** is as follows:

On page 9, line 8, By inserting an opening bracket "[" preceding the words "by certified mail, return receipt" and by placing strike-throughs therein;

And also on page 9, line 9, By placing strike-throughs through the word "requested," and by inserting a closing bracket thereafter.

HB 160, AN ACT relating to the practice of acupuncture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, ***the practice of acupuncture,*** the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Human Resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Human Resources by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county

health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding; and

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Sections 2 to 24 of this Act shall be known as the "Kentucky Acupuncture Practices Act."

SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Section 1 and Sections 2 to 24 of this Act:

(1) "Acupuncture" means the insertion, manipulation, and removal of needles from the body, and the use of other modalities and procedures at specific locations on the body, for the prevention, cure, or correction of a malady, illness, injury, pain, or other condition or disorder by controlling and regulating the flow and balance of energy and functioning of the patient to restore and maintain health, but acupuncture shall not be considered surgery;

(2) "Board" means the Kentucky State Board of Acupuncture and Related Techniques;

(3) "Moxibustion" means the use of heat on, or above, or on acupuncture needles at specific locations on the body for the prevention, cure, or correction of a malady, illness, injury, pain, or other condition or disorder;

(4) "Chiropractic physician" means a person licensed under KRS Chapter 312;

(5) "Acupuncturist" means a person licensed under Sections 2 to 24 of this Act as a doctor of healing arts to practice acupuncture and related techniques in this state and includes the terms "licensed acupuncturist," "certified acupuncturist," "acupuncture practitioner," and "oriental acupuncture practitioner"; and

(6) "Related techniques" means the distinct system of basic health care that uses all allied diagnostic and treatment techniques of acupuncture, oriental, traditional, and modern, for the prevention or correction of a malady, illness, injury, pain, or other condition or disorder by controlling and regulating the flow and balance of energy and functioning of the patient to restore and maintain health. As used in this subsection, "related techniques" include, but are not limited to, acupuncture, moxibustion or other heating modalities, cupping, magnets, cold laser, electroacupuncture including electrodermal assessment, application of cold packs, ion pumping cord, lifestyle counseling, including general eating guidelines, tui na, massage incidental to acupuncture, breathing and exercising techniques, and the recommendation of Chinese herbal medicine lawfully and commercially available in the United States. "Related techniques," including but not limited to tui na, shall not involve manipulation, mobilization or adjustment to the spine or extraspinal articulations. Sections 2 to 24 of this Act do not restrict licensed health care professionals from using the terms "acupuncture" or "acupuncturist" if acupuncture is regulated by their boards.

SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the requirements set forth in Section 18 of this Act, any acupuncturist validly certified by the National Certification Commission for Acupuncture and Oriental Medicine or its successor as of the effective date of this Act, and residing and practicing acupuncture in this state as of December 31, 1998, shall upon application to the board be issued a license without an examination.

(2) Notwithstanding the requirements set forth in Section 18 of this Act, any acupuncturist not validly certified as of the effective date of this Act, but residing and practicing acupuncture in this state as of December 31, 1998, shall upon application to the board be issued a provisional license conditioned upon the acupuncturist becoming certified by the National Commission for the Certification of Acupuncturists or its successor within two (2) years of the effective date of this Act. Upon obtaining this certification and presenting it to the board, the acupuncturist shall be issued a nonprovisional license by the board. Should such certification not be obtained within the two (2) year period, the board shall immediately revoke the provisional license. While the license is provisional, the acupuncturist may practice acupuncture and related techniques in this state within a scope of practice set forth by the board in writing after review of the qualifications, training, and practice experience of the acupuncturist.

SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 2 to 24 of this Act is intended to limit, interfere with, or prevent any other class of licensed health care professionals from practicing acupuncture and related techniques when permitted by their state licensing board. However, a chiropractic physician shall be entitled to practice acupuncture as part of chiropractic practice after completing an education program in acupuncture from a college accredited by the Council on

Chiropractic Education.

(2) The board shall, by regulation, allow certain exceptions for specified individuals to use and administer acupuncture needling in schools, by teachers of acupuncture at seminars and training programs, in board-approved chemical dependency treatment programs, and in board-approved apprenticeship programs that meet or exceed the standards of recognized national programs.

SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

No person defined in subsection (5) of Section 3 of this Act may solicit for patronage or advertise for patronage by any means whatever which is misleading, fraudulent, deceptive, or dishonest.

SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of the several prosecuting attorneys of the state of Kentucky to prosecute to final judgment every criminal violation of Sections 2 to 24 of this Act committed within their jurisdictions when requested and authorized by the board.

SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky State Board of Acupuncture and Related Techniques. The board shall consist of three (3) persons appointed by the Governor as full members and one (1) person appointed by the Governor as an ex officio member. Two (2) full members of the board shall be qualified acupuncturists. One (1) full member shall be appointed to represent the public and shall not have practiced acupuncture and related techniques in this or any other jurisdiction, or be retired from or have any financial interest in the occupation regulated. The public member shall be subject to confirmation by the Senate. The public member shall be a full voting member but shall not participate in the grading of examinations. The ex officio member shall be a physician licensed under KRS Chapter 311 and shall be entitled to be notified of all board meetings and to participate in the deliberations of the board, but shall have no vote, shall not serve as an officer of the board, and shall not be counted to establish a quorum or a majority necessary to conduct business.

(2) The initial full members of the board shall be appointed by the Governor for staggered terms as follows: One (1) member's term shall expire after one (1) year, one (1) shall expire after two (2) years, and one (1) shall expire after three (3) years. The initial ex officio board member shall be appointed to a term of three (3) years. Successors shall be appointed for three (3) year terms. Vacancies shall be filled by appointment by the Governor for the unexpired term. Board members shall serve until their successors have been appointed and qualified.

(3) The Governor may remove any full member from the board for any reason that would justify the suspension or revocation of his or her license to practice acupuncture and related techniques.

(4) A person who is, or has been in the preceding two (2) years, on the faculty of a school which is subject to review by the board may not serve on the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Each member of the board shall be a citizen of the United States and a resident of this state, and shall, before entering upon the duties of the office, take the oath prescribed by the Constitution for state officers and shall file it with the Secretary of State, who shall thereupon issue to each person so appointed a certificate of appointment.

(2) Each full professional member also shall be a graduate of a reputable school or institute of acupuncture or oriental medicine and be certified by the National Commission for the Certification of Acupuncturists.

SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

No member of the board, during the term of office or thereafter, shall be liable for damages as a result of any official act in the performance of duty as a member. Any action therefor shall, upon motion, be dismissed with prejudice at the cost of the plaintiff.

SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall, within sixty (60) days of the effective date of this Act, and every May thereafter, hold a meeting and elect from its membership a president, secretary, and treasurer for terms set by the board.

(2) (a) It shall be the duty of the board to meet regularly once in every six (6) months.

(b) Special meetings of the board may be called at any time at the pleasure of the president or by the secretary on the request of any two (2) full members of the board.

(c) Three (3) full members shall constitute a quorum at any meeting of the board.

(3) The board shall determine by its own rules the time and manner of giving notice to members of meetings and other matters.

(4) Any action of the board shall require an affirmative vote of a majority of the full membership of the board, excluding the ex officio member.

SECTION 12. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the board shall keep a record of the minutes of its meetings and a record of all persons making application for license and the action of the board thereon.

(2) The secretary shall also keep a record of the names, addresses, and license numbers of all acupuncturists licensed by the board, together with a record of license renewals, suspensions, and revocations.

SECTION 13. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Kentucky State Board of Acupuncturists and Related Techniques is empowered to incur whatever expenses it may deem necessary or expedient in performing its functions. It may employ or, engage whatever personnel, legal counsel, independent contractors, or assistants it may deem necessary or expedient therefor and fix their compensation. However, no employee of the board shall have any financial interest in the occupation of acupuncture and related techniques.

(b) All of the disbursements provided for in this section shall be out of the fees and fines collected by the board.

(2) The board is authorized to:

(a) Make suitable bylaws for carrying out its duties under the provisions of Sections 2 to 24 of this Act;

(b) Sue and be sued;

(c) Have an official seal which shall bear the words "Kentucky State Board of Acupuncture and Related Techniques";

(d) Provide a secretary's certificate. The certificate of the secretary of the board under seal shall be accepted in the courts of the state as the best evidence as to the minutes of the board and shall likewise be accepted in the courts of the states as the best evidence as to the licensure or nonlicensure of any person under the requirements of Sections 2 to 24 of this Act;

(e) Adopt, publish, and, from time to time, revise rules and regulations not inconsistent with the law as may be necessary to enable it to carry into effect the provisions of Sections 2 to 24 of this Act;

(f) Keep a record of all its proceedings, receipts, and disbursements;

(g) Adopt standards for applicants wishing to take the licensing examination and conduct examinations, or contract with persons or entities to conduct examinations, of applicants;

(h) Grant, deny, renew, suspend, or revoke licenses to practice acupuncture and related techniques for any cause stated in Sections 2 to 24 of this Act. Except as otherwise provided by Sections 2 to 24 of this Act, the board shall have exclusive jurisdiction to determine who shall be permitted to practice acupuncture and related techniques in the state of Kentucky; and

(i) Conduct disciplinary proceedings as provided in Sections 2 to 24 of this Act.

(3) (a) In the performance of its duties, the board is empowered to administer oaths and take testimony on any matters within the board's jurisdiction and issue subpoenas and thereby compel the attendance of persons before it for the purpose of examining any facts or conditions properly pending the board for its action.

(b) All subpoenas issued by the board shall be served in the manner prescribed by law for the service of subpoenas issuing from the courts, and all persons so served shall obey the subpoenas or be subject to the penalties provided by law for the disobedience of subpoenas issuing from the courts.

SECTION 14. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) All fees authorized by Sections 2 to 24 of this Act are the property of the board and shall be provided to its treasurer to be disposed of as provided in Sections 2 to 24 of this Act. Any surplus in the treasury of the board at the end of the fiscal year shall remain in the treasury and may be expended in succeeding years for the purposes set out in Sections 2 to 24 of this Act.

(2) All funds received by the board shall be deposited into a financial institution designated by the board and expended in the furtherance of the purposes of Sections 2 to 24 of this Act and the board's duties thereunder, which include, but are not limited to:

(a) The publication and distribution of the Kentucky Acupuncture Practices Act;

(b) The publication and yearly distribution of a directory of all licensed acupuncturists;

(c) Investigations of violations of Sections 2 to 24 of this Act;

(d) Institution of actions to compel compliance with the provisions of Sections 2 to 24 of this Act; and

(e) Defense of actions brought against it as a result of its actions under the provisions of Sections 2 to 24 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

In order to safeguard life and health, any person practicing acupuncture and related techniques in the state for compensation or gratuitously shall be required to submit evidence that he or she is qualified to practice and licensed as provided in Sections 2 to 24 of this Act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 2 to 24 of this Act shall be construed to prohibit or to require a license with respect to the practice of medicine and surgery, chiropractic, osteopathy, dentistry, podiatry, optometry, Christian Science, physical therapy, cosmetology, massage therapy, or any branch of the healing arts as defined by the laws of this state as now or hereafter enacted, it not being intended by Sections 2 to 24 of this Act to limit, restrict, enlarge, or alter the privileges and practices of any of these professions or branches of the healing arts.

SECTION 17. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Sections 2 to 24 of this Act, it shall be unlawful for any person not licensed under the provisions of Sections 2 to 24 of this Act:

(a) To practice or offer to practice acupuncture and related techniques; or

(b) To use any sign, card, or device to indicate that the person is an acupuncturist.

(2) Except as otherwise provided in Sections 2 to 24 of this Act, any person who shall attempt to practice acupuncture and related techniques, as defined in Section 3 of this Act, without having first been licensed or otherwise permitted under the provisions of Sections 2 to 24 of this Act to do so, shall be deemed guilty of a misdemeanor. Upon conviction, the person shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or by imprisonment in the county jail for a period of not less than one (1) month nor more than eleven (11) months, or by both fine and imprisonment. Each day shall constitute a separate offense.

(3) The courts of this state having general equity jurisdiction are vested with jurisdiction and power to enjoin the unlawful practice of acupuncture and related techniques in a proceeding by the board or any member thereof, or by any citizen of this state, in the county in which the alleged unlawful practice occurred or in which the defendant resides, or in Jefferson County. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of the provisions of Sections 2 to 24 of this Act, but the remedy of injunction shall be in addition to liability for criminal prosecution.

SECTION 18. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) (a) No person shall be licensed to practice acupuncture and related techniques unless he or she has passed an examination and has been found to have the necessary qualifications as prescribed in the rules adopted by the board. Applications for license to practice acupuncture and related techniques in the state of Kentucky shall be made to the secretary of the board in writing on forms furnished by the board. The application shall be signed by the applicant in his or her own handwriting and acknowledged before an officer authorized to administer oaths.

(b) Before any applicant shall be eligible for an examination, the applicant shall furnish satisfactory proof to the board that:

1. He or she is of good moral character by filing with his application the affidavits of at least two (2) reputable acupuncturists who attest to such character;

2. He or she has successfully completed not less than sixty (60) semester credit hours of college education, to include a minimum of thirty (30) semester credit hours in the field of science; and

3. He or she has completed a program in acupuncture and related techniques and has received a certificate or diploma from an institute approved by the board. The training received in the program shall be for a period of not less than four (4) academic years, and shall include a minimum of eight hundred (800) hours of supervised clinical practice.

(2) Prior to approval of an institute of acupuncture and related techniques, the board shall determine that the institute meets standards of professional education. These standards shall provide that the institute:

(a) Require, as a prerequisite to graduation, a program of study of at least four (4) academic years;

(b) Meet the minimum requirements of a board approved national accrediting body;

(c) Require participation in a carefully supervised clinical or internship program; and

(d) Confer a certificate, diploma, or degree in acupuncture and related techniques only after personal attendance in classes and clinics.

(3) To qualify to take the examination, an applicant additionally shall:

(a) Be at least twenty-one (21) years of age;

(b) Be a citizen of the United States or a legal resident;

(c) Not have had a license to practice acupuncture and related techniques in any other state suspended or revoked nor have been placed on probation for any cause;

(d) Not have been convicted of a felony; and

(e) Not be a habitual user of intoxicants, drugs, or hallucinatory preparations.

(4) The board may charge the following fees:

(a) Initial application for licensing, a fee not to exceed two hundred fifty dollars ($250);

(b) Written and practical examination not including the cost of the nationally recognized examination, a fee not to exceed three hundred fifty dollars ($350);

(c) Biennial licensing renewal, a fee not to exceed four hundred dollars ($400);

(d) Late renewal more than thirty (30) days, but not later than one (1) year, after expiration of a license, which late fee is in addition to any other fees, a fee not to exceed one hundred dollars ($100);

(e) Reciprocal licensing, a fee not to exceed seven hundred fifty dollars ($750);

(f) Annual continuing education provider registration, a fee not to exceed two hundred dollars ($200); and

(g) Any and all fees to cover reasonable and necessary administrative expenses.

(5) If the applicant is approved, the applicant shall be admitted for examination. Should the applicant pass the examination, no part of the fee shall be returned and the applicant shall be issued a license to practice acupuncture and related techniques in accordance with Sections 2 to 24 of this Act.

(6) If the applicant is not approved, the application and one-half (1/2) of the examination fee shall be returned to the applicant with the reasons for the disapproval clearly stated.

(7) Should an applicant be approved but fail to appear for the examination, no part of the fee shall be returned, but the applicant shall be eligible for examination at a later date.

(8) Should the approved applicant fail the examination, no part of the fee shall be returned, and the applicant shall be eligible for reexamination at a later date, at the discretion of the board, and upon paying an examination fee of fifty dollars ($50) per failed subject up to one hundred fifty dollars ($150).

SECTION 19. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Examinations shall be given in English and in writing and shall include the following subjects:

(a) Anatomy and physiology;

(b) Pathology;

(c) Diagnosis;

(d) Hygiene, sanitation, and sterilization techniques;

(e) Acupuncture and related principles, practices and techniques; ~~and~~

(f) Chinese herbal medicine.

(2) The board shall hold an examination at least once each calendar year, and all applicants shall be notified in writing of the date and time of all examinations. The board may utilize a nationally recognized examination if it deems the national exam is sufficient to qualify a practitioner for licensure in this state.

(3) The board shall issue a license to every applicant whose application has been filed with and approved by the board and who has paid the required fees and who either:

(a) Has passed the board's examination with a score on each subject of not less than seventy percent (70%); or

(b) Has achieved a passing score on a board-approved nationally recognized examination.

SECTION 20. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

A person licensed under Sections 2 to 24 of this Act shall post his or her license in a conspicuous location in his or her place of practice.

SECTION 21. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Each licensee shall be required to pay biennial license renewal fees and meet continuing education requirements as specified in Sections 2 to 24 of this Act. A licensee who fails to renew his or her license within one (1) year after its expiration may not renew it, and it may not be restored, reissued or reinstated thereafter, but that person may apply for and obtain a new license if he or she meets the following requirements:

(1) Meets all current board standards; and

(2) Takes and passes the examination and pays all fees associated therewith as if seeking a license for the first time.

SECTION 22. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall not renew the license of any person engaged in the practice of acupuncture and related techniques unless the licensee presents to the board evidence of attendance at a board-approved educational session, or sessions, of not less than twenty-four (24) hours of continuing education.

(2) Licensees residing out of state shall comply with the continuing education requirements.

(3) The presentation of a fraudulent or forged evidence of attendance at an educational session shall be a cause for suspension or revocation of the holder's license.

SECTION 23. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The following acts by an applicant for a license or by a licensed acupuncturist shall constitute grounds for which the disciplinary actions specified in subsection (2) of this section may be taken by the board:

  (a) Attempting to obtain, obtaining, or renewing a license to practice acupuncture and related techniques by bribery, fraud, or deceit;

  (b) Having pled guilty or nolo contendere to, or having been found guilty of, a crime in any jurisdiction which directly relates to the practice of acupuncture and related techniques or to the ability to practice same;

  (c) Advertising, practicing, or attempting to practice under a name other than one's own;

  (d) Making deceptive, untrue, or fraudulent representations in the practice of acupuncture and related techniques;

  (e) Becoming mentally incompetent or unfit or incompetent by reason of negligence, habits or other causes;

  (f) Becoming habitually intemperate or addicted to the use of habit-forming drugs, illegal drugs, or alcohol;

  (g) Acting unprofessionally in the practice of acupuncture and related techniques;

  (h) Committing fraud or deceit in filing insurance forms, documents, or information pertaining to the health or welfare of a patient; and

  (i) Willfully or repeatedly violating any of the provisions of Sections 2 to 24 of this Act or any rule or order of the board.

(2) When the board finds any person guilty of any of the acts set forth in subsection (1) of this section, it has the sole authority to:

  (a) Refuse to issue a license to the offender;

  (b) Revoke or suspend the offender's license;

  (c) Restrict the practice of the offender;

  (d) Impose an administrative fine not to exceed five thousand dollars ($5,000) for each count or separate offense;

  (e) Reprimand the offender; or

  (f) Place the offender on probation for a period of time and subject to such conditions as the board may specify.

(3) The board shall not reinstate the license of an acupuncturist, or cause a license to be issued to a person it has deemed to be unqualified, until such time as the board is satisfied that he or she has complied with all the terms and conditions set forth in the final order and that he or she is capable of safely engaging in the practice of acupuncture and related techniques.

(4) Disciplinary proceedings taken under this section shall be as provided in the Kentucky Revised Statutes.

SECTION 24. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Acupuncturists shall use only presterilized, disposable needles in their administration of acupuncture treatments. The use of staples in the practice of acupuncture is unlawful.

(2) Sanitation practices shall include:

  (a) Hands shall be washed with soap and water or other disinfectant before handling needles and between treatment of different patients;

  (b) Skin in the area of penetration shall be thoroughly swabbed with alcohol or other germicidal solution before inserting needles; and

  (c) No person shall be allowed to practice acupuncture and related techniques without first having passed a nationally recognized clean needle technique course.

Section 25. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

The Committee Substitute to **HB 160** is as follows:

AN ACT relating to the practice of acupuncture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to establish a commission to study the benefits and effects of complementary and alternative medicine, nonconventional medical treatment, acupuncture, and naturopathy. The members of the study commission shall include the deans of the Commonwealth's three (3) medical schools or their designees, two (2) representatives of schools of complementary and alternative medicine, representatives of the Kentucky State Board of Chiropractic Examiners, the Kentucky State Board of Medical Licensure, the Kentucky Nurses Association, the Kentucky Hospital Association, the Kentucky Medical Association, the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists, the Kentucky Pharmacists Association, and the Division of Consumer Protection of the Office of the Attorney General. The study commission shall consider reports and findings provided by the National Institute of Health and the American Medical Association on their respective studies of these issues. The study commission shall report any findings and recommendations to the year 2000 Regular Session of the General Assembly.

Section 2. If during the two (2) year study period, any alternative medical treatment under review by the study commission is found to be safe and effective, the alternative medical treatment may be referred to the Kentucky Board of Medical Licensure for consideration for possible approval as part of the practice of medicine.

HB 161, AN ACT relating to child support and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists. The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Human Resources that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment ***or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. sec. 651 et seq.;*** except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated,[~~or~~] payments on the child support arrearage are being made in accordance with a court or administrative order***, or the person complies with the***

subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage ***or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16)***from the Cabinet for Human Resources shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Human Resources and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 2. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employees, or to any board or official functioning under this chapter which have been written, sent or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information ***received or transmitted***[~~obtained~~] shall not be published or be open for public inspection***, including instances in which the agency determines reasonable cause to believe evidence of domestic violence or child abuse, but that disclosure of the information could be harmful to the custodial parent or the child of the parent,*** except that necessary information and records may be furnished to:

(a) Public employees in the performance of their duties in connection with the administration of the public assistance or child support enforcement program pursuant to Part D of Title IV of the Social Security Act;

(b) All law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Court Judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the General Assembly of the Commonwealth of Kentucky and the Congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator;

(d) Any interested party at a hearing before the secretary or his duly authorized representative to the extent necessary for the proper presentation of his case; provided, that any names or information obtained through access to such records shall not be used for any commercial or political purposes; and

(e) Any bank, savings and loan association, credit union, or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient

of public assistance.

(4) The unauthorized use by any employee of the cabinet of information obtained pursuant to KRS 205.835 is prohibited.

Section 3. KRS 205.595 is amended to read as follows:

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the Commonwealth, the employer is required:

(1) To permit the parent to enroll under family coverage any child who is otherwise eligible for the coverage, without regard to any enrollment season restrictions;

(2) ***In the case where the noncustodial parent provides health care coverage and changes employment; to accept a notice of transfer of the provision to enroll from the Cabinet for Human Resources, the custodial parent or the noncustodial parent, and to enroll the child in the noncustodial parent's health care coverage, unless the noncustodial parent contests the notice pursuant to KRS Chapter 13B;***

(3) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for Human Resources;

(4)[~~(3)~~] Not to disenroll or eliminate coverage of a child unless:

(a) The employer is provided satisfactory written evidence that a court or administrative order requiring coverage of the child is no longer in effect, or that the child is or will be enrolled in comparable health coverage which will take effect no later than the effective date of the disenrollment; or

(b) The employer has eliminated family health coverage for all of its employees; and

(5)[~~(4)~~] To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, except that the amount withheld may not exceed the maximum amount permitted to be withheld under Section 303(b) of the Federal Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

Section 4. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the Cabinet for Human Resources;

(2) "Secretary" shall mean the secretary of the Cabinet for Human Resources;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay ***spousal support that applies to spouses with a child even if the child support is not part of the order***[~~maintenance when included in the child support order~~] or when ***spousal support is*** assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever health care coverage is available at a reasonable cost;

(6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;

(7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, ***bonuses, worker's compensation, retirement and pensions, interest and disability,*** earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from ***public assistance under Title IV-A of the Social Security Act***[~~aid to families with dependent children~~], or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 5. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support Enforcement is established in the Cabinet for Human Resources.

(2) The duties of the division of child support ***enforcement***, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to ***669***[~~667~~];

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) ***Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;***

(e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment of paternity form;

(f)[~~(e)~~] Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;[~~ and~~]

(g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;

(h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;

(i)[~~(f)~~] Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212***;***

(j) Administratively establish child support orders which shall have the same force and effect of law;

(k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;

(l) Impose a penalty for failure to comply with an administrative subpoena;

(m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals

who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;

(n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the circuit court when the individual or entity resides; and

(o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.

(3) ***Effective September 30, 1999,*** the cabinet shall establish a system to receive and process all child support payments. The system shall include ***existing***[~~compatible~~] computer systems to record the payments. ***The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.***

(4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act.

(5) After the establishment of the ***disbursement unit***[~~compatible computer~~] child support collection system, the cabinet or its designee[~~,~~] shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(6)[~~(4)~~] Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is cancelled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(7)[~~(5)~~] Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of ***the individuals for*** whom services are sought.

(8) The cabinet shall determine the name of each obligor who owes an arrearage of at least five thousand dollars ($5000). After notification to the obligor owing an arrearage amount of five thousand dollars ($5000), the cabinet shall transmit to the secretary for human resources the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.

(9) The cabinet shall determine the name of each obligor who owes an arrearage of at least one (1) year's child support and forward the name of the individual to a board of licensure, or board of certification, for the denial, revocation, or suspension of a driver's license, professional license, occupational license, recreational license, or sporting license. A dispute hearing shall be conducted by the cabinet in accordance with Section 25 of this Act. The only basis for a dispute hearing shall be a mistake in fact.

(10) The cabinet shall enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to Section 10 of this Act shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.

(11) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

Section 6. KRS 205.720 is amended to read as follows:

(1) By applying for Title IV-D services or accepting public assistance for or on behalf of a needy dependent child, the recipient shall be deemed to have made an assignment to the cabinet of the right to any child support or maintenance owed up to the amount of public assistance paid by the cabinet to the recipient, including amounts which have accrued at the time the assignment is made ***between October 1, 1997, and September 30, 2000***. The cabinet shall be subrogated to the right of the child or the person having custody to collect and receive all child support payments and to initiate any support action existing under the laws of this state.

(2) ***The cabinet shall distribute all child support payments and assigned arrearages as required by 42 U.S.C. sec. 651 et seq.***

(3) When Title IV-D services on behalf of a dependent child are terminated, current and past due court-ordered or administratively-determined child support owed the child shall be payable to the physical custodian of the dependent child for the period of time the dependent child was in the physical custody of that custodian.

Section 7. KRS 205.721 is amended to read as follows:

(1) All services available to individuals receiving ***public assistance under Title IV-A of the Social Security Act***~~[aid to families with dependent children (AFDC)]~~ benefits shall also be available to individuals not receiving ***public assistance***~~[AFDC]~~ benefits, upon application by the individual with the cabinet.

(2) The cabinet shall continue to provide IV-D services when a family ceases to receive public assistance without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. IV-D services shall be discontinued upon the request of the recipient.

(3) Except as provided in subsection (2) of this section, the cabinet may charge an application fee for the services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.

Section 8. KRS 205.730 is amended to read as follows:

(1) ***Unless the cabinet has reason to believe allegations of child abuse or domestic violence and that the disclosure of the information could be harmful to the custodial parent or the child of the parent, the cabinet shall attempt to locate a noncustodial parent of a child described in KRS 205.725, and establish or set an amount of modification, and enforce the child support obligation.***

(2) Upon the request of a putative father and for the purpose of establishing paternity only, the cabinet shall attempt to locate a custodial parent of a child described in KRS 205.712 if the cabinet finds the action to be in the best interest of the child.

(3) If paternity is established for a child described in KRS 205.725 as a result of the location of the custodial parent, the cabinet shall establish a child support obligation amount or an amount of modification for a child support obligation and shall enforce the child support obligation if the cabinet finds the enforcement of the order to be in the best interest of the child~~[The cabinet shall attempt to locate absent responsible parents of children described in KRS 205.725, and upon request of a putative father, the cabinet shall attempt to locate custodial parents for the purpose of establishing paternity when the cabinet finds the attempt to be in the best interest of the child]~~.

(4)~~[(2)]~~ The cabinet shall serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, and, upon request of a putative father, the location of a custodial parent, in order to establish paternity, to answer interstate inquiries concerning deserting parents or custodial parents, to coordinate and supervise any activity on a state level in search of an absent parent or custodial parent, to develop guidelines for coordinating activities of any governmental agency in providing information necessary for location of absent parents or custodial parents, ***to obtain information on the location of parents to enforce state and federal laws against parental kidnapping and make or enforce a child custody or visitation order,*** and is to process all requests received from an initiating county or an initiating state which has adopted the Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act.

(5)~~[(3)]~~ In order to carry out responsibilities imposed under this chapter, the cabinet may request information and assistance from any governmental agency. All state, county, and city agencies, officers, and employees shall cooperate with the cabinet in determining the location of parents who have abandoned or deserted children and shall cooperate with the cabinet in determining the location of custodial parents for the purpose of establishing paternity with all pertinent information relative to the location, income~~[,]~~ and ***assets,*** property***, and debt*** of ***the***~~[such]~~ parents, notwithstanding any provision of state law making ***the***[~~such~~] information confidential.

(6)[~~(4)~~] The information which is obtained by the cabinet shall only be available to such governmental agency or political subdivision of any state for purposes of locating an absent parent to enforce the parent's obligation of support and for the purposes of location of custodial parents to establish paternity of putative fathers.

Section 9. KRS 205.735 is amended to read as follows:

All business concerns doing business in this state, to the extent that they have employees working within this state, or maintain personnel files within this state, or are incorporated under the laws of this state, shall provide the cabinet with the following information upon certification by the secretary that the information is for the purpose of locating a parent***, and the establishment, modification, and enforcement of a child support and medical support order,*** and that the information obtained will be treated as confidential information by this cabinet or the agency or cabinet of any other state which administers the Child Support Enforcement Program pursuant to Part D of Title IV of the Social Security Act for the other state: full name, Social Security account number, date of birth, home address, wages, and number of dependents listed for tax purposes.

Section 10. KRS 205.745 is amended to read as follows:

(1) A child support lien ***or levy*** in favor of the cabinet shall ***be enforceable against***[~~attach to~~] all ***real***[~~personal~~] and ***personal***[~~real~~] property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. ***The lien or levy shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.***

(2) The cabinet shall file a notice of lien or levy with the county clerk of any county or counties in which the obligor has interest in property and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the cabinet shall disclose the specific amount of liability to any interested party legally entitled to the information. The notice, when so filed, shall be conclusive to all persons of the lien or levy on the property having legal situs in that county. The lien or levy shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien or levy shall attach to all interest in real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee of ten dollar ($10) for filing the lien and the same fee for releasing the lien.

(3) The cabinet may force the sale of the property of the parent subject to the lien or levy for the payment of assigned child support, and distribute the proceeds in accordance with 42 U.S.C. sec. 651 et seq.

(4) The cabinet's lien or levy shall be on a parity with state, county, and municipal ad valorem tax liens, and superior to any mortgage or encumbrance created after the notice of lien is recorded. The cabinet shall give full faith and credit to child support liens or levys created in other states without requirement of judicial notice or proceedings prior to enforcement, but the liens shall subordinate to any child support lien of the cabinet that relates to the same obligor and property.[~~The lien shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.~~

~~(2) The cabinet shall file its claim of lien within three (3) years from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the Cabinet for Human Resources, claims a lien in the amount of .... plus all unpaid child support hereafter accruing, including interest, until paid in full on the (describe property) of (name of obligor) for child support owed to obligor's dependent children or for such public assistance moneys as may have been paid to obligor's children by the Cabinet for Human Resources."~~]

(5)[~~(3)~~] The cabinet shall notify the obligor of the filing of its claim of lien ***or levy and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.***

(6) Liens resulting from actions provided by this section shall be inapplicable to an account maintained at a financial institution that is or may be subject to the data match system established by Section 47 of this Act, and is subordinate to any prior lien, levy, or security interest perfected by a financial institution or other legitimate lien or levy holder.

Section 11. KRS 205.768 is amended to read as follows:

(1) The cabinet shall make information available to consumer reporting agencies upon their request regarding the amount of overdue support owed by a parent in cases where the overdue support exceeds one thousand dollars ($1,000). Amounts less than one thousand dollars ($1,000) may be reported by the cabinet upon request by the ***certified*** consumer reporting agency.

(2) The cabinet shall provide advance notice to the obligor concerning the proposed release of the information to the ***certified*** consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law.

(3) The cabinet may charge the ***certified*** consumer reporting agency a fee not to exceed the actual cost of providing the information.

Section 12. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be guilty of a Class A misdemeanor.

(2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.

(3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be guilty of a Class B misdemeanor. Each failure or violation shall constitute a separate offense.

(4) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be guilty of a Class A misdemeanor.

(5) Any bank, savings and loan association, credit union, investment company, savings institution, trust company, insurance or annuity company, pension or profit sharing trust company, or other financial institution failing to comply with provisions of subsection (11) of Section 23 of this Act, shall be subject to a penalty of five hundred dollars ($500) for each failure to comply.

Section 13. KRS 213.036 is amended to read as follows:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall, upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for Human Resources.[~~The local registrar shall transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the state registrar.~~] When a birth or fetal death certificate filed with a local registrar indicates the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

(5) The local registrar shall provide for voluntary acknowledgment of paternity services in accordance with 42 U.S.C. sec. 651 et seq., and transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the State Registrar.

Section 14. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for herein, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth or the hearing risk certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written***, oral, audio, or video*** materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written***, oral, audio, or video*** description of the rights and responsibilities of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) ***If the parents wish to acknowledge paternity,*** require the voluntary acknowledgment of paternity obtained through the hospital based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment of paternity ***forms designated by the Office of Vital Statistics shall be the only documents***[~~form shall be the only document~~] having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Human Resources shall:

(a) Provide to all public and private birthing hospitals in the state written***, audio, or video*** materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written***, audio, or video*** description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 15. KRS 213.071 is amended to read as follows:

(1) The state registrar shall establish a new certificate of birth for a person born in the Commonwealth when the state registrar receives the following:

(a) A report of adoption as provided in KRS 213.066 or a report of adoption prepared and filed in accordance with the laws of another state or foreign country or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or

(b) A request that a new certificate be established as prescribed by administrative regulation and the evidence as required by administrative regulation proving that the person has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of the person in which case the surname of the child shall be changed in accordance with KRS 213.046.

(2) If paternity is determined in a court action, the clerk shall report the findings of the court to the state registrar on forms prescribed and furnished for that purpose. The reports shall be made no later than the fifteenth of the month following the date of the order.

(3) If a new certificate is established, the actual place and date of birth shall be shown except in the case of adoption. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate, when issued, shall not contain the place of birth, hospital, or name of the doctor or midwife. This information shall be given only by an order of the court in which the child was adopted. If the child was born in the Commonwealth, the new birth certificate shall show the residence of the adoptive parents as the birthplace of the child, and this shall be deemed for all legal purposes to be the birthplace of the child.

(4) The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the evidence of adoption, paternity determination, or paternity acknowledgement shall not be subject to inspection except upon order of a court of competent jurisdiction.

(5) If any judgment under this section is reversed, amended, modified, or vacated in any particular, the clerk of the court shall notify the state registrar of the reversal or modification, and the state registrar shall make the changes, if any, in the records as may be necessary by the reversal or modification***, or if the voluntary acknowledgment of paternity pursuant to subsection (4) of Section 14 of this Act is rescinded, the state registrar shall make the changes, if any, in the records as may be necessary by the reversal, modification, or recission of the voluntary acknowledgment of paternity***.

(6) If a new certificate of birth is established by the state registrar, all copies of the original certificate of birth on file in the

local health department shall be sealed and forwarded to the state registrar as the state registrar shall direct.

(7) If no birth certificate is on file for an adopted child born in Kentucky, the state registrar shall prepare a certificate of birth in accordance with information furnished by the clerk of the Circuit Court which issued the adoption order. The state registrar shall furnish the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section.

Section 16. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. Licenses shall be valid throughout the state for a period of three (3) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222;, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by any one (1) of the following:

1. Completion, prior to, on, or after October 1, 1996, of any hunter education and firearms safety course approved by the Department of Fish and Wildlife or a similar agency of another state. The Department of Fish and Wildlife may impose additional qualifications by promulgation of administrative regulations to meet the requirements of this section and may establish fees as may be required, so as to avoid a diversion of Fish and Game funds as specified in 50 C.F.R. Part 80. Any fee assessed shall be reasonable and shall not exceed the actual cost of administering the program;

2. Completion, prior to, on, or after October 1, 1996, of any law enforcement firearms safety or training course or class offered for special local peace officers or special law enforcement officers conducted or approved by the Department of Criminal Justice Training;

3. Completion, prior to, on, or after October 1, 1996, of any firearm safety or training course or class available to the general public offered by law enforcement, junior college, college, or private or public institution or organization or firearms training school, utilizing instructors certified by the Department of Criminal Justice Training; or

4. Completion, prior to, on, or after October 1, 1996, of any firearms training or safety course or class conducted by a state-certified firearms instructor or an instructor holding a certification as a firearms instructor issued by a state or federal agency.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training, Department of State Police, and any other state agency with the authority to certify firearms instructors, shall promulgate uniform administrative regulations concerning the certification and de-certification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police

Retirement System, or County Employees Retirement System shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) ***The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice from the Cabinet for Human Resources that the person has a child support arrearage that equals or exceeds the cumulative amount that would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice to comply with a subpoena or warrant relating to paternity or child support proceedings.***

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System shall be exempt from paying the application or renewal fees following the date of his retirement. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6)[~~(5)~~] The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection ***(5)***[~~(4)~~] of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7)[~~(6)~~] The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection ***(6)***[~~(5)~~] of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence.

(8)[~~(7)~~] The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies.

Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9)[~~(8)~~] Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the district court.

(10)[~~(9)~~] If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11)[~~(10)~~] A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12)[~~(11)~~] Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections ***(5), (6), and (7)***[~~(4), (5), and (6)~~] of this section.

(13)[~~(12)~~] No license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding, except that nothing in this section shall preclude a judge from carrying a concealed weapon;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property;

(h) Any church, synagogue, house of worship, or other property owned, leased, or otherwise used and operated by a religious organization in the furtherance of a religious purpose; or

(i) Any place where the carrying of firearms is prohibited by federal law.

(14)[~~(13)~~] The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons in a vehicle on the premises shall not be a criminal offense so long as the weapons are not removed from the vehicle or brandished while the vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons in vehicles owned by the employee. Carrying of a concealed weapon in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15)[~~(14)~~] All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16)[~~(15)~~] The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17)[~~(16)~~] (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state and whose state grants to Kentucky residents the right to carry a concealed deadly weapon in the state of the licensee without requiring a separate license to carry a concealed deadly weapon issued by that state, may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) A person who holds a valid license issued by another state of the United States whose home state permits Kentucky residents to obtain a license to carry a concealed deadly weapon in that state may apply directly to the Department of State Police for a license to carry concealed deadly weapons in Kentucky. The Department of State Police shall take whatever steps are necessary to verify that the person applying has a valid license to carry a concealed deadly weapon issued by his home state.

(18)[~~(17)~~] By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

Section 17. KRS 403.090 is amended to read as follows:

(1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the Circuit Court of the county has but one (1) judge, the appointment shall be made by the judge. If the court has two (2) or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. The appointed person shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.

(2) ***Except for those cases administered pursuant to 42 U.S.C. sec. 651 et seq.,*** it shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the Circuit Court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court***.***[~~, and~~] The friend of the court shall see that the payments***, except for those cases***

administered pursuant to 42 U.S.C. sec. 651 et seq., are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile session of District Court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the Circuit Court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile session of District Court as reimbursement for the expenses incurred by the juvenile session of District Court in connection with the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. The friend of the court shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.

(3) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable the friend of the court to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody, and maintenance of the children. The friend of the court shall make a report to the trial judge, at a time fixed by the judge, setting forth recommendations as to the care, custody, and maintenance of the children. The friend of the court may request the court to postpone the final submission of any case to give the friend of the court a reasonable time in which to complete the investigation.

(4) The friend of the court shall have authority to secure the issuance by the court of any order, rule, or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care and maintenance of children. In performing duties under subsection (3) of this section the friend of the court shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses. In the case of depositions taken on interrogatories, the friend of the court may file cross interrogatories. The friend of the court shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when the friend of the court deems it necessary for the protection of the minor children, or when the friend of the court may be directed by the court to attend.

(5) The friend of the court shall not directly or indirectly represent any party to a divorce action except as herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, may proceed to enforce the payment of the allowance made to the spouse also.

(6) Where a friend of the court is acting as a designee of the cabinet pursuant to KRS 205.712 and an applicant for Title IV-D services pursuant to KRS 205.721 has requested a modification of an existing child support order pursuant to a divorce or other judicial order, the friend of the court shall seek the modification, providing all jurisdictional requirements are met. The friend of the court's representation shall extend only for the limited purpose of seeking a modification of an existing child support order consistent with the provisions of KRS 403.212.

(7) The fiscal court of any county which has authorized the appointment of ***a*** friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for necessary expenses, equipment and supplies, payable out of the general fund of the county, upon approval of the appointing judge or judges.

Section 18. KRS 403.150 is amended to read as follows:

(1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

(2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:

- (a) The age, occupation, ***social security number,*** and residence of each party and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;
- (b) The date of the marriage and the place at which it was registered;
- (c) That the parties are separated and the date on which the parties separated;
- (d) The names, ages, ***social security numbers,*** and addresses of any living infant children of the marriage, and whether the wife is pregnant;
- (e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and
- (f) The relief sought.

(3) Either or both parties to the marriage may initiate the proceeding.

(4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.

(5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Section 19. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g)***, and the social security numbers of all parties subject to the motion***. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) ***If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.***

(5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.

(6)[~~(5)~~] A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 20. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their adjusted gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(b) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) ***The court order shall include the social security number of all parties subject to a support order.***

(10)In any case administered by the Cabinet for Human Resources, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Human Resources may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by Section 2 of this Act.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Human Resources shall transfer notice of the provision for coverage for the child to the employer which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

Section 21. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, ***retirement and pension funds,*** commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to ***public assistance as defined under Title IV-A of the Social Security Act***~~[Aid to Families with Dependent Children (AFDC)]~~, and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child;
2. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
3. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
4. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support guidelines table is as follows:

COMBINED
MONTHLY
ADJUSTED

PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
100	60	60	60	60	60	60
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116
3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220
3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448

4,300	603	898	1,123	1,266	1,381	1,477
4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637
5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075
7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238
8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376

9,000	962	1,450	1,817	2,042	2,230	2,387
9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451
9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610
11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758
12,600	1,119	1,685	2,110	2,407	2,594	2,769
12,700	1,123	1,692	2,118	2,416	2,604	2,779
12,800	1,128	1,699	2,127	2,426	2,614	2,790
12,900	1,132	1,705	2,135	2,435	2,624	2,801
13,000	1,137	1,712	2,143	2,444	2,634	2,811
13,100	1,141	1,719	2,151	2,454	2,645	2,822
13,200	1,146	1,725	2,159	2,463	2,665	2,832
13,300	1,150	1,732	2,167	2,472	2,665	2,843
13,400	1,154	1,738	2,175	2,481	2,675	2,854
13,500	1,158	1,745	2,183	2,491	2,685	2,864
13,600	1,163	1,751	2,191	2,500	2,695	2,875
13,700	1,167	1,758	2,199	2,509	2,705	2,885
13,800	1,172	1,765	2,208	2,519	2,715	2,896
13,900	1,176	1,771	2,216	2,528	2,725	2,907

14,000	1,181	1,778	2,224	2,537	2,735	2,917
14,100	1,185	1,785	2,232	2,547	2,746	2,928
14,200	1,190	1,791	2,240	2,556	2,756	2,938
14,300	1,194	1,798	2,248	2,565	2,766	2,949
14,400	1,198	1,804	2,256	2,574	2,776	2,960
14,500	1,202	1,811	2,264	2,584	2,786	2,970
14,600	1,207	1,817	2,272	2,593	2,796	2,981
14,700	1,211	1,824	2,280	2,602	2,806	2,991
14,800	1,216	1,831	2,289	2,612	2,816	3,002
14,900	1,220	1,837	2,297	2,621	2,826	3,013
15,000	1,225	1,844	2,305	2,630	2,836	3,023

Section 22. KRS 405.465 is amended to read as follows:

(1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the Cabinet for Human Resources or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.

(2) All child support orders and medical support insurance orders being established, modified, or enforced by the Cabinet for Human Resources, or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the Cabinet for Human Resources[~~ or the domestic relations clerk of the court or other officer designated by the court to receive the payment,~~] that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5) The employer shall notify the cabinet when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.

(6) Any assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(7) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

Section 23. KRS 405.430 is amended to read as follows:

(1) ***When a parent presents himself to the cabinet for the voluntary establishment of paternity and clear evidence of parentage is not present, the cabinet shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.***

(2) The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

(3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, except for good cause. The request shall be supported by a sworn statement of the party.

(4) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

(5)[~~(2)~~] The cabinet shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.

(6)[~~(3)~~] ***When in the best interest of the child,*** the cabinet may ***review and adjust***[~~modify~~] a parent's child support obligation or child care obligation as established by the cabinet***, upon a request of the cabinet when an assignment has been made,***[~~ on its own~~] or upon ***either***[~~a~~] parent's petition ***if the amount of the child support awarded under the order***

differs from the amount that would be awarded in accordance with Section 21 of this Act. The cabinet shall notify parents at least once every three (3) years of the right to a review[~~, but only upon a finding of the conditions described for judicial modification of a support order~~].

(7)[~~(4)~~] In establishing or modifying a parent's monthly child support obligation, the cabinet may ***use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with Section 21 of this Act. The cabinet shall*** utilize information***,*** ***including financial records,*** about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.

(8) In cases in which past due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act, the cabinet shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

(9) The cabinet may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the cabinet attempting to establish, modify, or enforce a child support obligation.

(10) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

(11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.

(12)[~~(5)~~] No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report,[~~ or~~] document***, or financial record*** used in determining child support or child care obligations.

(13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal district court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:

- ***(a) The sum of the greater of one thousand dollars ($1,000) for each act of unauthorized disclosure of financial records; or***
- ***(b) The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus***
- ***(c) If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.***

Section 24. KRS 405.060 is amended to read as follows:

(1) Any sale or conveyance made to a purchaser with notice or for the benefit of any religious society, if made in fraud or hindrance of the right of wife or child to maintenance, shall be void as against the wife or child.

(2) In any case where an obligor transfers income or property to avoid payment to a child support creditor, the transfer shall be indicia of fraud. Indicia of fraud creates a prima facie case that the transfer of income or property was to avoid payment of child support. Indicia of fraud shall be set forth by administrative regulation.

(3) In any case in which the cabinet knows of a transfer by a child support obligor with respect to which a prima facie case is established, the cabinet shall:

- ***(a) Seek to void the transfer; or***
- ***(b) Obtain a settlement in the best interests of the child support creditor.***

Section 25. KRS 405.450 is amended to read as follows:

(1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing. The dispute hearing proceedings shall be conducted in accordance with KRS Chapter 13B.

(2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the final order.

(3) ***Except for the denial, revocation, or suspension of a driver's license, professional license, occupational, sporting, or recreational license upon one (1) year's child support arrearage,*** the parent or the cabinet may file an appeal in the Circuit Court in the county of the parent's or the child's residence in accordance with KRS Chapter 13B.

(4) The parent shall, during the pendency of his appeal from the final order, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the cabinet, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

(5) If the cabinet elects to conduct the modification review as specified in subsection (6) of Section 23 of this Act, either party may contest the adjustment to the obligation amount within thirty (30) days after the date of the notice of the adjustment by requesting a review, and if appropriate, a request for adjustment of the order as permitted by this chapter.

Section 26. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for Human Resources, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a ***support order was issued in the state prior to October 1, 1994, and in which a*** parent is required to pay court ordered or administratively determined child support, medical support, maintenance, and medical support insurance, ***and*** wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any***, without the need for a judicial or administrative hearing***.

(3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer***, without the need for a judicial or administrative hearing***.

(4) ***The cabinet shall advise the obligated parent that a wage withholding has commenced within fourteen (14) days of the issuance***[~~Advance notice shall be sent to the obligor prior to the issuance of the order to withhold earnings~~]. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will ***continue***[~~occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the obligor of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the obligor with the information contained in any order served on the employer with respect to the withholding~~].

(5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or Family Court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.

(8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively-ordered or judicially-ordered medical support obligation.

(9) ***The employer shall forward to the Cabinet for Human Resources that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.***

(10) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(11)[~~(10)~~] Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(12)[~~(11)~~] No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(13)[~~(12)~~] The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(14)[~~(13)~~] Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 27. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for Human Resources or its designee upon the request of complainant authorized by this section.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name ***and social security number*** of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name ***and social security number*** of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. ***Bills for testing, pregnancy, and childbirth without requiring third party foundation testimony shall be regarded as prima facie evidence of the amount incurred.*** An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant herein authorized. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical support shall be brought by the county attorney or by the Cabinet for Human Resources or its designee.

(4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a rebuttable presumption of paternity.

(5) Upon a showing of service of process on the defendant and if the defendant has made no pleading to the court or has not moved to enter evidence pursuant to KRS 406.091, the court shall order paternity to be established by default.

Section 28. KRS 406.025 is amended to read as follows:

(1) Upon completion of a signed, notarized, voluntary acknowledgment of paternity affidavit by the mother and alleged father, obtained through the hospital-based paternity program, and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for ***the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order***[~~one (1) year following the child's birth~~].

(2) Upon completion of a signed, notarized, voluntary acknowledgment of paternity affidavit by the mother and alleged father obtained outside of the hospital and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for ***the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order*** one (1) year following the date of signatures on the notarized affidavit.

(3) Pending an administrative or judicial determination of parentage, or upon a signed, notarized, voluntary acknowledgment of paternity form having been transmitted by the local registrar and received by the Office of Vital Statistics, a temporary support order shall be issued upon motion of any party if paternity is indicated by genetic testing or other clear and convincing evidence.

(4) The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(5) The court shall, within fourteen (14) days from the filing of the motion, order an amount of temporary child support based upon the child support guidelines as provided by Section 21 of this Act. The ordered child support shall be retroactive to the date of the filing of the motion to move the court to enter an order for temporary child support without written or oral notice to the adverse party. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by subsection (2)(a) of Section 19 of this Act. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless

otherwise ordered by the court.

(6) Unless good cause is shown, court or administratively ordered child support shall continue until final judicial or administrative determination of paternity.

Section 29. KRS 406.035 is amended to read as follows:

(1) If paternity has been determined under the provisions of subsection (1) or (2) of KRS 406.021, the court shall make a written order of paternity.

(2) ***Information concerning this action received or transmitted shall not be published or be open for public inspection, including where the cabinet determines reasonable evidence of domestic violence or child abuse, if the disclosure of the information could be harmful to the custodial parent or the child of the parent.***

(3) Such orders are to be kept separately and shall not be open for public inspection except that they may be inspected by employees of governmental agencies in the performance of their duties, all law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Court Judges, and anyone else under order of the court expressly permitting inspection. Either party to an action under this chapter or attorneys of a party to an action under this chapter shall be permitted to inspect the order entered in the action to which he is a party.

Section 30. KRS 406.061 is amended to read as follows:

Either party to an action commenced under the provisions of this chapter ***to establish paternity shall not be entitled to a jury trial as provided by 42 U.S.C. sec. 666 (a)(5)(I)***[~~may demand a jury trial of the facts in issue, or the court upon its own motion may grant a jury trial, in accordance with the provisions of the Rules of Civil Procedure~~].

Section 31. KRS 406.091 is amended to read as follows:

(1) ***An unchallenged acknowledgment of paternity shall be ratified without the requirement for judicial or administrative proceedings.*** If a genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) ***In a contested paternity case, the child and all other parties shall submit to genetic testing upon a request of any such party which shall be supported by a sworn statement of the party, except for good cause.***

(3) Genetic test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(4)[~~(3)~~] Any objection to genetic testing results shall be made in writing to the court within twenty (20) days ***of receipt of genetic test results***[~~before a hearing at which the results may be introduced into evidence~~]. If the results of genetic tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(5)[~~(4)~~] Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(6)[~~(5)~~] A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(7)[~~(6)~~] ***Except where the Cabinet for Human Resources administratively orders genetic testing,*** all costs associated with genetic testing shall be paid by the parties in proportions determined by the court.

(8) When administratively ordered, the cabinet shall pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established. The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

Section 32. KRS 427.120 is amended to read as follows:

No part of any police or firefighters' pension fund established in a city of the first, second or third class shall, before or after its order for distribution to any person entitled thereto, be seized or levied upon by any writ or decree for the payment of any debt, claim or judgment against the beneficiary of the fund***, except for the payment of court or administratively ordered current child support, or child support owed, or to be owed***.

Section 33. KRS 427.125 is amended to read as follows:

No portion of a pension fund created under KRS 95.761 to 95.785 shall, before or after its order for distribution by the board of trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained or levied upon by virtue of any attachments, execution, injunction, writ, interlocutory, or other order, or decree, or any process or proceeding whatever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary of said fund, ***except for court or administratively ordered child support, or owed or to be owed child support,*** but said fund shall be held and distributed for the purpose of KRS 95.761 to 95.785, and for no other purpose whatever.

Section 34. KRS 67A.620 is amended to read as follows:

The right to a retirement annuity, disability annuity, survivor's annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, garnishment, execution, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding***, except for court or administratively ordered current child support, or owed child support, or to be owed child support***.

Section 35. KRS 95.620 is amended to read as follows:

(1) Except ***for court or administratively ordered current child support, or owed child support, or to be owed child support, and except*** as provided in KRS 65.156 and subsections (2), (3) and (4) of this section, the policemen's and firefighters' pension fund in cities of the third or fourth class shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) From July 15, 1982, and thereafter, the board of trustees of the pension fund shall, upon the request of a member, refund a member's contributions, including contributions picked up by the employer pursuant to KRS 65.155, upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member, including contributions picked up by the employer pursuant to KRS 65.155, after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six percent (6%) interest from the dates of refund to the date of repayment. Such repayments shall not be picked up by the employer pursuant to KRS 65.155. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

Section 36. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations ***and child support orders for current, owed, or to be owed child support,***[~~orders~~] issued by a court shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 37. KRS 161.700 is amended to read as follows:

(1) The right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or other process, and are unassignable except as provided in this chapter***, and except for court or administratively ordered current child support, owed child support, or to be owed child support***. Except retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 38. KRS 95.878 is amended to read as follows:

Except for court or administratively ordered current child support, owed child support, or to be owed child support, the right to a retirement annuity, disability annuity, survivors annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding.

SECTION 39. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that requirements relating to child support or paternity established by KRS Chapters 205, 403, 405, 406, and 407 shall be in compliance with the provisions of 42 U.S.C. sec. 651 et seq.

SECTION 40. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall have authority to issue an administrative subpoena commanding information and records relating to the establishment, enforcement, and collection of child support.

(2) All public and private entities including financial institutions shall comply with a subpoena issued under this section within a reasonable time period. Financial institutions may deduct twenty dollars ($20) from the account on which the subpoenaed information has been issued.

(3) The cabinet may enforce compliance by filing an action in the Franklin Circuit Court.

(4) The subpoena shall be issued by a person designated by the secretary.

SECTION 41. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall request information from a certified consumer reporting agency only when a full credit report is needed for the purpose of establishing an individual's capacity to make child support payments or to determine the obligation amount, and paternity has been established or acknowledged.

(2) The cabinet shall provide at least ten (10) days prior notice by certified mail to the obligor whose report shall be requested from a certified consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law.

(a) The report will be kept confidential and be used solely for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of the payments; and

(b) The report will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.

(3) Methods by which an obligor may contest the accuracy of the information shall be set forth by administrative regulations promulgated by the cabinet.

SECTION 42. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) Financial institutions doing business in the Commonwealth shall enter into cooperative agreements with the cabinet or its designee to operate a data match system. Pursuant to the agreements, the financial institution shall be required to provide identifying information each calendar quarter for each obligated parent who maintains an account at the institution and who owes an arrearage, and who shall be identified by the cabinet.

(2) The cooperative agreement shall include provisions for financial institutions to encumber or surrender assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to Section 52 of this Act. Any lien filed by the Cabinet for Human Resources for past due child support shall have priority over any other lien filed by any agency, corporation, or association.

(3) The financial institution shall be paid a fee for conducting data matches from the obligor's account, not to exceed the actual cost.

(4) No liability shall arise for the Commonwealth or the financial institution under this section with respect to any disclosure of financial records for the establishment, modification, or enforcement of a child support obligation of the individual.

(5) The financial institution shall not be liable for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the cabinet, for any other action taken in good faith to comply with the requirement of this section.

(6) "Financial institution" means:

(a) A depository institution and an institution-affiliated party as defined by 12 U.S.C. sec. 1813(c) and (u);

(b) Any federal or state credit union, including an institution-affiliated party of that credit union, as defined by 12 U.S.C. sec. 1752 and 12 U.S.C. sec. 1786(r);

(c) Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage

firm, trust company, or similar entity authorized to do business in the Commonwealth.

(7) The cabinet may promulgate administrative regulations to implement the requirements of this section.

SECTION 43. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

(1) A person shall be denied a license or certification or shall have a license or certification which has been issued suspended or revoked indefinitely if the person has a child support arrearage which equals or exceeds the amount which would be owed after one (1) year of nonpayment, or fail after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings by 42 U.S.C. sec. 666 (a)(16).

(2) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, until the person complies with the subpoena or warrant relating to paternity or child support proceedings, or until the appeal of the denial or suspension is upheld and the license is reinstated.

(3) Except for cases administered by the cabinet under 42 U.S.C. sec. 651 et seq. which shall be afforded the appeal process set forth by Section 25 of this Act, an individual referred for denial, revocation, or suspension of license or certification shall have the right to appeal to the licensing or certifying board. Each licensing or certifying authority shall promulgate administrative regulations governing the appeal required by this section.

SECTION 44. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a District or Circuit Court becomes aware that an individual has a child support arrearage that equals or exceeds the amount which would be owed after one (1) year of nonpayment, or that an individual fails after receiving appropriate notice to comply with subpoenas or warrants relating to paternity or child support proceedings, as provided by 42 U.S.C. sec. 666(a)(16), that court shall order the clerk of the court to provide notice of the arrearage or failure to comply with subpoenas or warrants to any professional, occupational, sporting license, or recreational licensing board or agency of the Commonwealth that has issued or is considering issuing a license or a certification to the party.

(2) A court order of child support arrearages that equals or exceeds one (1) year's amount shall, in the absence of fraud, be conclusive, but any aggrieved person shall have the right to an appeal from the licensing or certifying authority action.

SECTION 45. A NEW SECTION OF KRS 405.405 TO 405.520 IS CREATED TO READ AS FOLLOWS:

(1) An employer or labor organization in the Commonwealth of Kentucky shall provide information to the Cabinet for Human Resources when that employer or labor organization hires an employee who resides or works in the Commonwealth, or rehires or permits the return to work of an employee who has been laid off, furloughed, separated, granted a leave without pay, or terminated from employment, unless the reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the secretary of human resources.

(2) The employer shall provide the information within twenty (20) days of the hiring or return to work of the employee. The information shall include:

(a) The employee's name, address, and social security number; and

(b) The employer's name, address, and, if the employer has been assigned one, federal and state employer identification numbers.

(3) An employer shall report the required information by submitting a copy of the employee's W-4 form or, at the option of the employer, an equivalent form provided by the Cabinet for Human Resources as prescribed by administrative regulation promulgated by the Cabinet for Human Resources in accordance with KRS Chapter 13A.

(4) The Cabinet for Human Resources shall enter all new hire information into the database of the cabinet with five (5) business days.

(5) An employer shall not be required to report the information when the hiring, rehiring, or returning to work involves:

(a) An employee to whom the employer pays wages of less than three hundred dollars ($300) each month; or

(b) An employee who is under eighteen (18) years of age.

(6) The Cabinet for Human Resources may promulgate administrative regulations in accordance with KRS Chapter 13A if the Cabinet for Human Resources determines exceptions are needed to reduce unnecessary or burdensome reporting or are needed to facilitate cost-effective operation of the cabinet under this section.

(7) The Cabinet for Human Resources shall use the information collected pursuant to this section for the location of noncustodial parents, establishment, modification, and enforcement of child support and any other matter related to paternity or child support.

(8) If the employer fails to report as required by this section, the Cabinet for Human Resources shall give the employer

written notice of the provisions of this section, including the penalty for failure to report.

(9) If the employer has not filed a report within twenty (20) days from the date that the written notice is sent to him, the Cabinet for Human Resources shall send a second written notice.

(10) If the employer fails to file a W-4 or equivalent form within twenty (20) days from the date that the second written notice is sent, or supplies a false or incomplete report, and the failure is a result of a conspiracy between the employee and the employer to prevent the proper information from being filed within twenty (20) days from the date that the second written notice is sent, the Cabinet for Human Resources shall send the employer by certified mail, return receipt request, notice of an administrative fine. The fine shall be two hundred fifty dollars ($250) per calendar month per person for any violation occurring after the second notice has been given, and continuing until a W-4 or equivalent form is received by the Cabinet for Human Resources. No fine shall be imposed for any period of less than one (1) full calendar month.

(11) The employer shall have ten (10) days after receipt of the administrative fine notice to request a hearing before the Cabinet for Human Resources on whether the administrative fine was properly assessed. If a timely request for a hearing is received, the Cabinet for Human Resources shall schedule and conduct a hearing in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 46. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a District or Circuit Court becomes aware that an individual has a child support arrearage that equals or exceeds the amount that would be owed after one (1) year of nonpayment, or the individual fails after receiving appropriate notices to comply with subpoenas or warrants relating to paternity or child support proceedings, that court shall order the clerk of the court to provide notice of the arrearage to any professional, occupations, sporting license, or recreational licensing board or agency of the Commonwealth which has issued or is considering issuing a license or a certification to the party.

(2) A court order of child support arrearages which equals or exceeds one (1) year's amount shall, in the absence of fraud, be conclusive, but any aggrieved person shall have the right to an appeal from the licensing or certifying authority action.

SECTION 47. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Revenue Cabinet and the Cabinet for Human Resources shall design, develop, implement, and operate a wage reporting and financial institution match system for the purpose of identifying the financial assets of individuals as identified by cabinet agencies, for the purpose of administering the tax laws, and the child support enforcement program of the Commonwealth. The Kentucky Revenue Cabinet and the Cabinet for Human Resources may promulgate administrative regulations to implement this section.

(2) Each financial institution in the Commonwealth shall enter into an agreement with the Revenue Cabinet and the Cabinet for Human Resources to develop and operate a data match system to facilitate identification of financial assets of individuals identified by cabinet agencies for the purpose of administering the tax laws, and the child support enforcement programs of the Commonwealth.

SECTION 48. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall request not more than quarterly, from each financial institution as defined in subsection (6) of this section, the name, record address, social security number, and other identifying data for each person listed in the request who maintains an account at that institution. The Revenue Cabinet shall update the listing every calendar quarter by removing the names of all persons who have had no prior matches in the two (2) immediately preceding quarters.

(2) The Revenue Cabinet may continue to request account matches on such removed names once a year from the two (2) calendar years immediately following the year in which the names are removed or for cause as defined in subsection (9) of this section.

(3) All requests made by the Revenue Cabinet pursuant to subsection (1) or (2) of this section shall be in machine-readable form unless the financial institution expressly requests the Revenue Cabinet to submit a request in writing. The institution shall furnish all information on those persons whose accounts on the books of the institution have a residential address within the Commonwealth at the time the request is processed by the institution.

(4) The cabinet shall pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost incurred by such financial institution, and may assess and recover actual costs incurred from responsible persons identified as a result of the data match. In addition, the cabinet shall pay the costs to the financial institution when computer or system changes are necessary to facilitate operation of the data match system required by this section.

(5) At its option, a financial institution may, within thirty (30) days of the end of the first quarter of every calendar year, submit to the Revenue Cabinet a report of the name, record address, social security number, and other identifying

data of each person maintaining an account at such institution. Within thirty (30) days of the end of each subsequent quarter of every calendar year, every financial institution electing this option shall submit to the Revenue Cabinet a supplemental report regarding each new account opened by a person during the quarter and each account reported in a prior quarter that has been closed during the most recent quarter. The information shall be submitted in a machine-readable form that is satisfactory to the Revenue Cabinet. A financial institution filing reports under this subsection shall not be required to comply with subsection (1) or (2) of this section.

(6) For the purposes of this section, "financial institution" or "institution" means every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state chartered credit unions, benefit associations, insurance companies, safe deposit companies, and money-market mutual fund, brokerage, and trust companies, and any entity similar to the foregoing authorized to do business in the Commonwealth.

(7) For the purposes of this section, "money-market mutual fund" means each regulated investment company within the meaning of 26 U.S.C. section sec. 851(a) of the Internal Revenue Code which seeks to maintain a constant net asset value of one dollar ($1) in accordance with 17 C.F.R. sec. 270.2a-7.

(8) For the purposes of this section, "account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or a money-market mutual fund account.

(9) For the purposes of this section, "for cause" means that the secretary has reason to believe that an individual has opened an account at that institution.

(10) For the purposes of the reports required by subsections (1) and (2) of this section, a financial institution shall be obligated to match and provide the account title of an account with multiple owners or persons having an interest in the account. The account shall be deemed to be maintained only by the person whose social security number or other taxpayer identification number is shown on the records of the financial institution with respect to the document.

SECTION 49. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

No employee or agent of the Commonwealth shall divulge any information referred to in KRS 205.715 to 205.800, except in the manner prescribed in KRS 205.715 to 205.800 to any public or private agency or individual; provided, however, that information may be disclosed and shared by and between any employee of the Cabinet for Human Resources and any designee, local administering agency, or any local housing authority for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs included in the reporting system. Unauthorized disclosure of any information shall be a violation that is punishable by a fine of one hundred dollars ($100) per offenses; except that the unauthorized release of the information about any individual shall be a separate offense from information released about any other individual.

SECTION 50. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 205.715 to 205.800 shall be construed to prevent the release by the Revenue Cabinet or the Cabinet for Human Resources of wage and financial institution information data to the United States Social Security Administration or the agencies of other states who administer federally funded welfare and unemployment compensation programs.

SECTION 51. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) A financial institution furnishing a report or providing tax information to the Revenue Cabinet or furnishing a report or providing asset information of an individual owing past due support to the Cabinet for Human Resources under either subsection (1) or subsection (2) of Section 47 of this Act shall not disclose to a depositor or an account holder that the name of that person has been received from or furnished to the Revenue Cabinet or the Cabinet for Human Resources; except that an institution may disclose to its depositors or account holder that under the financial institution match system the Revenue Cabinet and the Cabinet for Human Resources has the authority to request certain identifying information on certain depositors or account holders.

(2) If a financial institution willfully violates the provisions of this section by releasing tax information, that institution shall pay to the Revenue Cabinet the lesser of one thousand dollars ($1000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(3) If a financial institution willfully violates the provisions of this section by releasing asset information of an individual owing child support to the Cabinet for Human Resources, the institution shall pay to the Cabinet for Human Resources the lesser of one thousand dollars ($1000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(4) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the Revenue Cabinet and the Cabinet for Human Resources under Section 47 of this Act, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list furnished by the financial institution to the Revenue Cabinet and the Cabinet for Human Resources, or in a report furnished by the financial institution to the Revenue Cabinet and the Cabinet for

Human Resources.

(5) Regardless of whether the action was specifically authorized or described in KRS 205.715 to 205.800 or an agreement, a financial institution shall not be liable for providing or disclosing of any information; for encumbering, holding, refusing to release, surrendering or transferring any account balance or asset; or any other action taken by a financial institution pursuant to this Act or agreement as required by Section 49 of this Act.

(6) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to KRS 205.715 to 205.800 or the agreement and shall not be liable for failure to provide that notice; provided however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the cabinet has the authority to request certain identifying information on certain depositors or account holders.

(7) A financial institution may charge an account levied on by the Revenue Cabinet and the Cabinet for Human Resources a fee, as determined by either cabinet, of not less than twenty dollars ($20) nor more that fifty dollars ($50) which shall be deducted from the account prior to remitting any funds to the Revenue Cabinet or the Cabinet for Human Resources.

SECTION 52. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) When the cabinet determines that the name, record address, and either social security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the social security number or taxpayer identification number of a noncustodial parent who owes past due support, a lien shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien arising therefrom, and the action to be taken to block or encumber the account with the lien for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver in accordance with the provisions of KRS 205.715 to 205.800.

(2) The individual subject to a child support lien on assets in an account held by a financial institution shall be informed by the notice provided by subsection (1) of this section of appeal procedures pursuant to KRS Chapter 13B.

(3) Nothing in this section precludes a financial institution from exercising its right to charge back or recoup a deposit to an account, or, prior to or upon receipt of the notice of lien or order to withhold and deliver, its right to setoff against an account held by the financial institution to which the lien provided for the subsection (1) of this section attaches any debts owed to the financial institution.

(4) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(5) Any lien or levy issued on an identified account by the Cabinet for Human Resources for past due child support shall have first priority over any other lien or levy issued by the Revenue Cabinet or any other agency, corporation, or association.

SECTION 53. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) An interstate lien may be created and a Notice of Interstate Lien may be filed on all of an obligor's real and personal property that is located in another state to enforce a child support obligation which has been judicially or administratively established in the Commonwealth. The lien shall be filed in the appropriate offices of the state or county where the property of the obligor isolated. All aspects of the lien, including its priority and enforcement, are governed by the law of the state where the property is located and shall remain until released by the authorized agent of the party which filed the lien, or in accordance with the laws of the state of filing.

(2) A lien to enforce a child support obligation which is created in another state shall be enforceable against all real and personal property of the obligor located in this state upon the filing of a Notice of Interstate Lien with the county clerk of any county or counties in which the obligor has interest in property, and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the party which filed the Notice of Interstate Lien shall disclose the specific amount of liability to any interested party legally entitled to that information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county. The lien shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien shall attach to all interest in the real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee of ten dollars ($10) for filing the lien and the same fee for releasing the lien.

(3) A child support lien created in another state shall be on a parity with state, county, and municipal ad valorem tax

liens, and superior to the lien of any mortgage or other encumbrance created after the Notice of Interstate Lien is recorded; however, it shall be subordinate to any child support lien which has been or may be filed by the cabinet as to the same obligor and property.

(4) The authority by which the child support lien is created in another state and filed in this state shall be certified on the Notice of Interstate Lien by a person who is authorized to certify on behalf of the party that is filing the Notice of Interstate Lien.

(5) The secretary of the cabinet may promulgate administrative regulations to implement this section.

Section 54. KRS 405.991 is amended to read as follows:

(1) Any person or corporation violating the provisions of KRS 405.465 or 405.467 shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates KRS 405.490(2) shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs and reasonable attorney's fees.

(3) A person who violates KRS 405.430*(12)*~~[(5)]~~ shall be guilty of a Class A misdemeanor and, in addition to any other penalties provided by law, shall be responsible for payment of any difference between the amount of child support calculated using the correct information and the prior calculation using the false information.

Section 55. Whereas Pub. L. 104-193, Title III, section 395(b)(2) requires this Act to be effective no later than the first day of the first calendar quarter beginning after the close of first regular session of the state legislature that begins after August 22, 1996, the date of enactment of Pub. L. 104-193, an emergency is declared to exist, and this Act shall become effective July 1, 1998, or upon its otherwise becoming a law.

The Committee Substitute to **HB 161** is as follows:

AN ACT relating to child support and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists. The non-state government members of the Medical Review Board shall be paid a fee of one hundred dollars ($100) per day plus reasonable expenses for performing this service.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(i) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(j) That person has failed to provide proof of motor vehicle security pursuant to KRS 186A.040.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Human Resources that the person has a child support arrearage which equals or

exceeds the cumulative amount which would be owed after one (1) year of nonpayment ***or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. sec. 651 et seq.***; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated,[~~ or~~] payments on the child support arrearage are being made in accordance with a court or administrative order***, or the person complies with the subpoena or warrant relating to paternity or child support***. Before the license may be reinstated, proof of elimination of the child support arrearage ***or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16)*** from the Cabinet for Human Resources shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Human Resources and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky operator's license, the cabinet shall deny him a license for the same period as if he had possessed a license and license had been suspended. The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(5) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(6) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(7) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

Section 2. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employees, or to any board or official functioning under this chapter which have been written, sent or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court, but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information ***received or transmitted***[~~obtained~~] shall not be published or be open for public inspection***, including instances in which the agency determines reasonable cause to believe evidence of domestic violence or child abuse and the disclosure of the information could be harmful to the custodial parent or the child of the parent,*** except that necessary information and records may be furnished to:

(a) Public employees in the performance of their duties in connection with the administration of the public assistance or child support enforcement program pursuant to Part D of Title IV of the Social Security Act;

(b) All law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Court Judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the General Assembly of the Commonwealth of Kentucky and the Congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator;

(d) Any interested party at a hearing before the secretary or his duly authorized representative to the extent necessary for the proper presentation of his case; provided, that any names or information obtained through access to such records shall not be used for any commercial or political purposes; and

(e) Any bank, savings and loan association, credit union, or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

(4) The unauthorized use by any employee of the cabinet of information obtained pursuant to KRS 205.835 is prohibited.

Section 3. KRS 205.595 is amended to read as follows:

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the Commonwealth, the employer is required:

(1) To permit the parent to enroll under family coverage any child who is otherwise eligible for the coverage, without regard to any enrollment season restrictions;

(2) ***In the case where the noncustodial parent provides health care coverage and changes employment, to accept a notice of transfer of the provision to enroll from the Cabinet for Human Resources, the custodial parent or the noncustodial parent, and to enroll the child in the noncustodial parent's health care coverage, unless the noncustodial parent contests the notice pursuant to KRS Chapter 13B;***

(3) If a parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application by the child's other parent, custodial parent, or by the Cabinet for Human Resources;

(4)[~~(3)~~] Not to disenroll or eliminate coverage of a child unless:

(a) The employer is provided satisfactory written evidence that a court or administrative order requiring coverage of the child is no longer in effect, or that the child is or will be enrolled in comparable health coverage which will take effect no later than the effective date of the disenrollment; or

(b) The employer has eliminated family health coverage for all of its employees; and

(5)[~~(4)~~] To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage, except that the amount withheld may not exceed the maximum amount permitted to be withheld under Section 303(b) of the Federal Consumer Credit Protection Act, and to pay the share of premiums to the insurer.

Section 4. KRS 205.710 is amended to read as follows:

As used in KRS 205.712 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the Cabinet for Human Resources;

(2) "Secretary" shall mean the secretary of the Cabinet for Human Resources;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of KRS 205.715 to 205.800, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay ***spousal support that applies to spouses with a child even if child support is not part of the order***[~~maintenance when included in the child support order~~] or when ***spousal support is*** assigned to the cabinet and arrearages of support past due and unpaid in addition to medical support whenever health care coverage is available at a reasonable cost;

(6) "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;

(7) "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, ***bonuses, worker's compensation, retirement and pensions, interest and disability,*** earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from ***public assistance under Title IV-A of the Social Security Act***[~~aid to families with dependent children~~], or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

Section 5. KRS 205.712 is amended to read as follows:

(1) The Division of Child Support Enforcement is established in the Cabinet for Human Resources.

(2) The duties of the division of child support ***enforcement***, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to ***669***[~~667~~];

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) ***Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;***

(e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment of paternity form;

(f)[~~(e)~~] Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;[~~ and~~]

(g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;

(h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;

(i)[~~(f)~~] Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212***;***

(j) Administratively establish child support orders which shall have the same force and effect of law;

(k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;

(l) Impose a penalty for failure to comply with an administrative subpoena;

(m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;

(n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides; and

(o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.

(3) *Effective September 30, 1999,* the cabinet shall establish a system to receive and process all child support payments. The system shall include *existing*[~~compatible~~] computer systems to record the payments. *The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.*

(4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act.

(5) After the establishment of the *disbursement unit*[~~compatible computer~~] child support collection system, the cabinet or its designee[~~,~~] shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(6)[~~(4)~~] Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is cancelled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.

(7)[~~(5)~~] Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of *the individuals for* whom services are sought.

(8) The cabinet shall determine the name of each obligor who owes an arrearage of at least five thousand dollars ($5,000). After notification to the obligor owing an arrearage amount of five thousand dollars ($5,000), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.

(9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after one (1) year of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).

(10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.

(11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person

complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.

(12) ***Except for cases administered by the cabinet under 42 U.S.C. sec. 651 et seq. which shall be afforded the appeal process set forth by subsection (3) of Section 24 of this Act, an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.***

(13) ***A dispute hearing shall be conducted by the cabinet in accordance with Section 24 of this Act. The only basis for a dispute hearing shall be a mistake in fact.***

(14) ***The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to Section 10 of this Act shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.***

(15) ***The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.***

Section 6. KRS 205.720 is amended to read as follows:

(1) By applying for Title IV-D services or accepting public assistance for or on behalf of a needy dependent child, the recipient shall be deemed to have made an assignment to the cabinet of the right to any child support or maintenance owed up to the amount of public assistance paid by the cabinet to the recipient, including amounts which have accrued at the time the assignment is made ***between October 1, 1997, and September 30, 2000***. The cabinet shall be subrogated to the right of the child or the person having custody to collect and receive all child support payments and to initiate any support action existing under the laws of this state.

(2) ***The cabinet shall distribute all child support payments and assigned arrearages as required by 42 U.S.C. sec. 651 et seq.***

(3) When Title IV-D services on behalf of a dependent child are terminated, current and past due court-ordered or administratively-determined child support owed the child shall be payable to the physical custodian of the dependent child for the period of time the dependent child was in the physical custody of that custodian.

Section 7. KRS 205.721 is amended to read as follows:

(1) All services available to individuals receiving ***public assistance under Title IV-A of the Social Security Act***[~~aid to families with dependent children (AFDC)~~] benefits shall also be available to individuals not receiving ***public assistance***[~~AFDC~~] benefits, upon application by the individual with the cabinet.

(2) The cabinet shall continue to provide IV-D services when a family ceases to receive public assistance without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. IV-D services shall be discontinued upon the request of the recipient.

(3) Except as provided in subsection (2) of this section, the cabinet may charge an application fee for the services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.

Section 8. KRS 205.730 is amended to read as follows:

(1) ***Unless the cabinet has reason to believe allegations of child abuse or domestic violence and that the disclosure of the information could be harmful to the custodial parent or the child of the parent, the cabinet shall attempt to locate a noncustodial parent of a child described in KRS 205.725, and establish or set an amount of modification, and enforce the child support obligation.***

(2) ***Upon the request of a putative father and for the purpose of establishing paternity only, the cabinet shall attempt to locate a custodial parent of a child described in KRS 205.712 if the cabinet finds the action to be in the best interest of the child.***

(3) ***If paternity is established for a child described in KRS 205.725 as a result of the location of the custodial parent, the cabinet shall establish a child support obligation or a modification for a child support obligation and shall enforce the child support obligation if the cabinet finds the enforcement of the order to be in the best interest of the***

child[~~The cabinet shall attempt to locate absent responsible parents of children described in KRS 205.725, and upon request of a putative father, the cabinet shall attempt to locate custodial parents for the purpose of establishing paternity when the cabinet finds the attempt to be in the best interest of the child~~].

(4)[~~(2)~~] The cabinet shall serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, and, upon request of a putative father, the location of a custodial parent, in order to establish paternity, to answer interstate inquiries concerning deserting parents or custodial parents, to coordinate and supervise any activity on a state level in search of an absent parent or custodial parent, to develop guidelines for coordinating activities of any governmental agency in providing information necessary for location of absent parents or custodial parents, ***to obtain information on the location of parents to enforce state and federal laws against parental kidnapping and to make or to enforce a child custody or visitation order,*** and is to process all requests received from an initiating county or an initiating state which has adopted the Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act.

(5)[~~(3)~~] In order to carry out responsibilities imposed under this chapter, the cabinet may request information and assistance from any governmental agency. All state, county, and city agencies, officers, and employees shall cooperate with the cabinet in determining the location of parents who have abandoned or deserted children and shall cooperate with the cabinet in determining the location of custodial parents for the purpose of establishing paternity with all pertinent information relative to the location, income[~~,~~] and ***assets,*** property***, and debt*** of ***the***[~~such~~] parents, notwithstanding any provision of state law making ***the***[~~such~~] information confidential.

(6)[~~(4)~~] The information which is obtained by the cabinet shall only be available to such governmental agency or political subdivision of any state for purposes of locating an absent parent to enforce the parent's obligation of support and for the purposes of location of custodial parents to establish paternity of putative fathers.

Section 9. KRS 205.735 is amended to read as follows:

All business concerns doing business in this state, to the extent that they have employees working within this state, or maintain personnel files within this state, or are incorporated under the laws of this state, shall provide the cabinet with the following information upon certification by the secretary that the information is for the purpose of locating a parent***, and the establishment, modification, and enforcement of a child support and medical support order,*** and that the information obtained will be treated as confidential information by this cabinet or the agency or cabinet of any other state which administers the Child Support Enforcement Program pursuant to Part D of Title IV of the Social Security Act for the other state: full name, Social Security account number, date of birth, home address, wages, and number of dependents listed for tax purposes.

Section 10. KRS 205.745 is amended to read as follows:

(1) A child support lien ***or levy*** in favor of the cabinet shall ***be enforceable against***[~~attach to~~] all ***real***[~~personal~~] and ***personal***[~~real~~] property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the cabinet. ***In accordance with subsection (4) of this section, the lien or levy shall have first priority over any other lien assigned by any other agency, association, or corporation.***

(2) The cabinet shall file a notice of lien or levy with the county clerk of any county or counties in which the obligor has interest in property and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the cabinet shall disclose the specific amount of liability to any interested party legally entitled to the information. The notice, when so filed, shall be conclusive to all persons of the lien or levy on the property having legal situs in that county. The lien or levy shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien or levy shall attach to all interest in real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee of ten dollars ($10) for filing the lien and the same fee for releasing the lien.

(3) The cabinet may force the sale of the property of the parent subject to the lien or levy for the payment of assigned child support, and distribute the proceeds in accordance with 42 U.S.C. sec. 651 et seq.

(4) The cabinet's lien or levy shall be superior to any mortgage or encumbrance created after the notice of lien or levy is recorded. The cabinet shall give full faith and credit to child support liens or levies created in other states without requirement of judicial notice or proceedings prior to enforcement, but the liens or levies shall subordinate to any child support lien or levy of the cabinet that relates to the same obligor and property.

(5) The cabinet shall not enforce the lien by foreclosure action on a principal residence of an obligor if to do so would deprive a minor child of the obligor of a homestead, unless the failure to enforce the lien by foreclosure would result in the loss of the home of the minor child of the custodial parent.

(6) In the event another lienholder initiates a foreclosure action against the property of the obligor, the cabinet may

protect its interest in the property by filing an answer counterclaim and cross-claim and participate in the proceeds of any sale of the property as its interests may appear.[~~The lien shall be cumulative and shall include all unpaid child support then due and thereafter accruing until the lien is paid in full.~~

~~(2) The cabinet shall file its claim of lien within three (3) years from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the Cabinet for Human Resources, claims a lien in the amount of .... plus all unpaid child support hereafter accruing, including interest, until paid in full on the (describe property) of (name of obligor) for child support owed to obligor's dependent children or for such public assistance moneys as may have been paid to obligor's children by the Cabinet for Human Resources."~~]

(7)[~~(3)~~] The cabinet shall notify the obligor of the filing of its claim of lien ***or levy and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.***

(8) Liens or levies resulting from actions provided by this section shall be inapplicable to an account maintained at a financial institution that is or may be subject to the data match system established by Section 44 of this Act, and is subordinate to any prior lien, levy, or security interest perfected by a financial institution or other legitimate lien or levy holder..

Section 11. KRS 205.768 is amended to read as follows:

(1) The cabinet shall make information available to consumer reporting agencies upon their request regarding the amount of overdue support owed by a parent in cases where the overdue support exceeds one thousand dollars ($1,000). Amounts less than one thousand dollars ($1,000) may be reported by the cabinet upon request by the ***certified*** consumer reporting agency.

(2) The cabinet shall provide advance notice to the obligor concerning the proposed release of the information to the ***certified*** consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law.

(3) The cabinet may charge the ***certified*** consumer reporting agency a fee not to exceed the actual cost of providing the information.

Section 12. KRS 205.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be guilty of a Class A misdemeanor.

(2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.

(3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be guilty of a Class B misdemeanor. Each failure or violation shall constitute a separate offense.

(4) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be guilty of a Class A misdemeanor.

(5) Any bank, savings and loan association, credit union, investment company, savings institution, trust company, insurance or annuity company, pension or profit sharing trust company, or other financial institution failing to comply with provisions of subsection (11) of Section 22 of this Act, shall be subject to a penalty of five hundred dollars ($500) for each failure to comply.

Section 13. KRS 213.036 is amended to read as follows:

(1) Each county in the Commonwealth shall constitute a registration district for the purposes of carrying out the provisions of this chapter.

(2) The secretary shall, upon the recommendation of the state registrar, designate a local registrar in each registration district to aid in the efficient administration of the system of vital statistics. The local registrar shall be an employee of the local health department. The designation may be revoked by the secretary.

(3) The local registrar may designate one (1) or more employees of the local health department as deputy registrar. The local registrar may also appoint persons as deputy registrars who are not employees of the local health department if, in the opinion of the cabinet, the appointments are necessary. All appointments shall be subject to the approval of the state registrar.

(4) The local registrar shall supply blank forms of certificates to persons who require them. The local registrar shall carefully examine each certificate of birth or fetal death when presented for filing, to ensure the record has been properly completed. If the certificates are properly completed the local registrar shall sign as local registrar and attest to the date of filing. The local registrar shall also make a complete and accurate copy of each certificate to be filed and permanently preserved in the local registrar's office as the local record, in the manner directed by the Cabinet for Human Resources.[~~The local registrar shall transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the state registrar.~~] When a birth or fetal death certificate filed with a local registrar indicates the residence

of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence.

(5) The local registrar shall provide for voluntary acknowledgment of paternity services in accordance with 42 U.S.C. sec. 651 et seq., and transmit original certificates and affidavits of paternity to the Office of Vital Statistics as directed by the State Registrar.

Section 14. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section. A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647. All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for herein, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth or the hearing risk certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written ***materials and oral, audio, or video*** materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written ***and an oral, audio, or video*** description of the rights and responsibilities***, the alternatives to, and the legal consequences*** of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) ***If the parents wish to acknowledge paternity,*** require the voluntary acknowledgment of paternity obtained through the hospital based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment of paternity ***forms designated by the Office of Vital Statistics shall be the only documents***[~~form shall be the only document~~] having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Human Resources shall:

(a) Provide to all public and private birthing hospitals in the state written ***materials and audio or video*** materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written ***description and an audio or video*** description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 15. KRS 213.071 is amended to read as follows:

(1) The state registrar shall establish a new certificate of birth for a person born in the Commonwealth when the state registrar receives the following:

(a) A report of adoption as provided in KRS 213.066 or a report of adoption prepared and filed in accordance with the laws of another state or foreign country or a certified copy of the decree of adoption, together with the information necessary to identify the original certificate of birth and to establish a new certificate of birth; or

(b) A request that a new certificate be established as prescribed by administrative regulation and the evidence as required by administrative regulation proving that the person has been legitimated, or that a court of competent jurisdiction has determined the paternity of the person, or that both parents have acknowledged the paternity of the person in which case the surname of the child shall be changed in accordance with KRS 213.046.

(2) If paternity is determined in a court action, the clerk shall report the findings of the court to the state registrar on forms prescribed and furnished for that purpose. The reports shall be made no later than the fifteenth of the month following the date of the order.

(3) If a new certificate is established, the actual place and date of birth shall be shown except in the case of adoption. If the adopted child is under eighteen (18) years of age, the birth certificate shall not contain any information revealing the child is adopted and shall show the adoptive parent or parents as the natural parent or parents of the child. The new birth certificate, when issued, shall not contain the place of birth, hospital, or name of the doctor or midwife. This information shall be given only by an order of the court in which the child was adopted. If the child was born in the Commonwealth, the new birth certificate shall show the residence of the adoptive parents as the birthplace of the child, and this shall be deemed for all legal purposes to be the birthplace of the child.

(4) The new certificate shall be substituted for the original certificate of birth in the files, and the original certificate of birth and the evidence of adoption, paternity determination, or paternity acknowledgement shall not be subject to inspection except upon order of a court of competent jurisdiction.

(5) If any judgment under this section is reversed, amended, modified, or vacated in any particular, the clerk of the court shall notify the state registrar of the reversal or modification, and the state registrar shall make the changes, if any, in the records as may be necessary by the reversal or modification***, or if the voluntary acknowledgment of paternity pursuant to subsection (4) of Section 14 of this Act is rescinded, the state registrar shall make the changes, if any, in the records as may be necessary by the reversal, modification, or rescission of the voluntary acknowledgment of paternity***.

(6) If a new certificate of birth is established by the state registrar, all copies of the original certificate of birth on file in the local health department shall be sealed and forwarded to the state registrar as the state registrar shall direct.

(7) If no birth certificate is on file for an adopted child born in Kentucky, the state registrar shall prepare a certificate of birth in accordance with information furnished by the clerk of the Circuit Court which issued the adoption order. The state registrar shall furnish the clerks of the Circuit Courts the necessary forms to carry out the provisions of this section.

Section 16. KRS 403.090 is amended to read as follows:

(1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the Circuit Court of the county has but one (1) judge, the appointment shall be made by the judge. If the court has two (2) or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. The appointed person shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.

(2) ***Except for those cases administered pursuant to 42 U.S.C. sec. 651 et seq.,*** it shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the Circuit Court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court***.***[~~, and~~] The friend of the court shall see that the payments***, except for those cases administered pursuant to 42 U.S.C. sec. 651 et seq.,*** are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile session of District Court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the Circuit Court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile session of District Court as reimbursement for the expenses incurred by the juvenile session of District Court in connection with the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. The friend of the court shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.

(3) ***In the event that a waiver is granted under 42 U.S.C. sec. 651 et seq., allowing payment of wage withholding collections to be directed to the friend of the court, an obligor shall be given the option of payment either to the friend of the court or the centralized collection agency.***

(4) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable the friend of the court to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody, and maintenance of the children. The friend of the court shall make a report to the trial judge, at a time fixed by the judge, setting forth recommendations as to the care, custody, and maintenance of the children. The friend of the court may request the court to postpone the final submission of any case to give the friend of the court a reasonable time in which to complete the investigation.

(5)[~~(4)~~] The friend of the court shall have authority to secure the issuance by the court of any order, rule, or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care and maintenance of children. In performing duties under subsection ***(4)***[~~(3)~~] of this section the friend of the court shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses. In the case of depositions taken on interrogatories, the friend of the court may file cross interrogatories. The friend of the court shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when the friend of the court deems it necessary for the protection of the minor children, or when the friend of the court may be directed by the court to attend.

(6)[~~(5)~~] The friend of the court shall not directly or indirectly represent any party to a divorce action except as herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, may proceed to enforce the payment of the allowance made to the spouse also.

(7)[~~(6)~~] Where a friend of the court is acting as a designee of the cabinet pursuant to KRS 205.712 and an applicant for Title IV-D services pursuant to KRS 205.721 has requested a modification of an existing child support order pursuant to a divorce or other judicial order, the friend of the court shall seek the modification, providing all jurisdictional requirements are met. The friend of the court's representation shall extend only for the limited purpose of seeking a modification of an existing child support order consistent with the provisions of KRS 403.212.

(8)[~~(7)~~] The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for necessary expenses, equipment and supplies, payable out of the general fund of the county, upon approval of the appointing judge or judges.

Section 17. KRS 403.150 is amended to read as follows:

(1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

(2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:

(a) The age, occupation, ***social security number,*** and residence of each party and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;

(b) The date of the marriage and the place at which it was registered;

(c) That the parties are separated and the date on which the parties separated;

(d) The names, ages, ***social security numbers,*** and addresses of any living infant children of the marriage, and whether the wife is pregnant;

(e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and

(f) The relief sought.

(3) Either or both parties to the marriage may initiate the proceeding.

(4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.

(5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Section 18. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the

opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g)***, and the social security numbers of all parties subject to the motion***. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) ***If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.***

(5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.

(6)[~~(5)~~] A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 19. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined parental income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their adjusted gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(b) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their adjusted gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) ***The court order shall include the social security numbers of all parties subject to a support order.***

(10)In any case administered by the Cabinet for Human Resources, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Human Resources may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by Section 2 of this Act.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Human Resources shall transfer notice of the provision for coverage for the child to the employer which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt for attachment or assignment for the payment of current child support or owed or to be owed child support.

Section 20. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, ***retirement and pension funds,*** commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to ***public assistance as defined under Title IV-A of the Social Security Act***[~~Aid to Families with Dependent Children (AFDC)~~], and food stamps.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child;
2. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
3. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
4. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0	$ 60	$ 60	$ 60	$ 60	$ 60	$ 60
100	60	60	60	60	60	60
200	70	70	70	70	70	70

300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000	195	303	325	330	335	340
1,100	212	324	384	389	394	399
1,200	229	346	433	446	451	456
1,300	246	367	460	504	510	515
1,400	262	392	491	554	576	582
1,500	277	417	522	588	642	650
1,600	293	437	548	618	674	717
1,700	308	458	574	647	706	755
1,800	322	478	599	675	736	788
1,900	336	495	620	699	763	816
2,000	350	512	642	723	789	844
2,100	364	529	663	747	815	872
2,200	376	546	684	771	841	900
2,300	389	563	706	795	868	928
2,400	401	580	727	819	894	956
2,500	413	597	749	843	920	984
2,600	424	614	770	867	946	1,012
2,700	435	630	790	889	970	1,038
2,800	445	646	809	911	994	1,064
2,900	455	662	829	934	1,019	1,090
3,000	465	677	849	956	1,043	1,116
3,100	475	693	868	978	1,067	1,142
3,200	485	709	888	1,001	1,092	1,168
3,300	495	725	908	1,023	1,116	1,194
3,400	506	741	928	1,045	1,140	1,220
3,500	516	757	947	1,067	1,164	1,246
3,600	526	773	967	1,090	1,189	1,272
3,700	536	790	988	1,113	1,215	1,299
3,800	548	808	1,011	1,139	1,243	1,329
3,900	559	826	1,033	1,164	1,270	1,359
4,000	571	844	1,056	1,190	1,298	1,388
4,100	580	862	1,078	1,215	1,326	1,418
4,200	592	880	1,101	1,240	1,353	1,448
4,300	603	898	1,123	1,266	1,381	1,477
4,400	615	916	1,146	1,291	1,409	1,507
4,500	626	933	1,161	1,316	1,435	1,535
4,600	636	949	1,181	1,338	1,459	1,561
4,700	647	964	1,200	1,360	1,483	1,586
4,800	657	980	1,220	1,381	1,507	1,612
4,900	667	995	1,239	1,403	1,531	1,637

5,000	676	1,010	1,257	1,424	1,554	1,661
5,100	686	1,025	1,275	1,444	1,576	1,685
5,200	695	1,039	1,294	1,465	1,599	1,709
5,300	705	1,054	1,312	1,486	1,621	1,733
5,400	714	1,069	1,330	1,506	1,644	1,757
5,500	724	1,083	1,348	1,527	1,666	1,781
5,600	733	1,098	1,367	1,548	1,689	1,805
5,700	743	1,113	1,385	1,568	1,712	1,829
5,800	753	1,127	1,403	1,589	1,734	1,853
5,900	762	1,142	1,421	1,610	1,757	1,877
6,000	772	1,157	1,440	1,630	1,779	1,901
6,100	781	1,171	1,458	1,651	1,802	1,926
6,200	791	1,186	1,476	1,672	1,824	1,950
6,300	800	1,198	1,498	1,690	1,844	1,970
6,400	808	1,209	1,511	1,705	1,860	1,988
6,500	816	1,219	1,524	1,720	1,876	2,005
6,600	823	1,230	1,538	1,735	1,893	2,023
6,700	830	1,240	1,551	1,750	1,909	2,040
6,800	837	1,251	1,564	1,764	1,925	2,058
6,900	844	1,261	1,577	1,779	1,942	2,075
7,000	851	1,272	1,591	1,794	1,958	2,093
7,100	858	1,282	1,604	1,809	1,975	2,110
7,200	865	1,293	1,617	1,824	1,991	2,127
7,300	872	1,303	1,630	1,839	2,007	2,145
7,400	879	1,313	1,644	1,854	2,024	2,162
7,500	885	1,324	1,657	1,869	2,040	2,179
7,600	891	1,333	1,668	1,881	2,053	2,194
7,700	896	1,342	1,679	1,893	2,066	2,208
7,800	901	1,350	1,691	1,905	2,079	2,223
7,900	907	1,359	1,702	1,917	2,093	2,238
8,000	912	1,368	1,713	1,929	2,106	2,252
8,100	917	1,377	1,724	1,941	2,119	2,267
8,200	922	1,386	1,736	1,953	2,133	2,281
8,300	928	1,395	1,747	1,965	2,146	2,296
8,400	933	1,404	1,758	1,977	2,159	2,311
8,500	938	1,413	1,769	1,989	2,173	2,325
8,600	944	1,421	1,780	2,002	2,186	2,340
8,700	949	1,430	1,792	2,014	2,199	2,354
8,800	954	1,437	1,800	2,024	2,210	2,366
8,900	958	1,444	1,809	2,033	2,220	2,376
9,000	962	1,450	1,817	2,042	2,230	2,387
9,100	966	1,457	1,825	2,052	2,241	2,398
9,200	971	1,463	1,833	2,061	2,251	2,408
9,300	975	1,470	1,842	2,070	2,261	2,419
9,400	979	1,476	1,850	2,079	2,271	2,430
9,500	983	1,483	1,858	2,089	2,281	2,440
9,600	988	1,489	1,866	2,098	2,291	2,451

9,700	992	1,496	1,874	2,107	2,301	2,461
9,800	996	1,502	1,883	2,117	2,311	2,472
9,900	1,000	1,508	1,891	2,126	2,321	2,483
10,000	1,005	1,515	1,899	2,165	2,331	2,493
10,400	1,022	1,541	1,932	2,202	2,372	2,536
10,500	1,027	1,548	1,940	2,212	2,382	2,546
10,600	1,032	1,554	1,948	2,221	2,392	2,557
10,700	1,036	1,561	1,956	2,230	2,402	2,567
10,800	1,040	1,567	1,965	2,240	2,412	2,578
10,900	1,044	1,573	1,973	2,249	2,422	2,589
11,000	1,049	1,580	1,981	2,258	2,432	2,599
11,100	1,053	1,587	1,989	2,268	2,443	2,610
11,200	1,058	1,593	1,997	2,277	2,453	2,620
11,300	1,062	1,600	2,005	2,286	2,463	2,631
11,400	1,066	1,606	2,013	2,295	2,473	2,642
11,500	1,070	1,613	2,021	2,305	2,483	2,652
11,600	1,075	1,619	2,029	2,314	2,493	2,663
11,700	1,079	1,626	2,037	2,323	2,503	2,673
11,800	1,084	1,633	2,046	2,333	2,513	2,684
11,900	1,088	1,639	2,054	2,342	2,523	2,695
12,000	1,093	1,646	2,062	2,351	2,533	2,705
12,100	1,097	1,653	2,070	2,361	2,544	2,716
12,200	1,102	1,659	2,078	2,370	2,554	2,726
12,300	1,106	1,666	2,086	2,379	2,564	2,737
12,400	1,110	1,672	2,094	2,388	2,574	2,748
12,500	1,114	1,679	2,102	2,398	2,584	2,758
12,600	1,119	1,685	2,110	2,407	2,594	2,769
12,700	1,123	1,692	2,118	2,416	2,604	2,779
12,800	1,128	1,699	2,127	2,426	2,614	2,790
12,900	1,132	1,705	2,135	2,435	2,624	2,801
13,000	1,137	1,712	2,143	2,444	2,634	2,811
13,100	1,141	1,719	2,151	2,454	2,645	2,822
13,200	1,146	1,725	2,159	2,463	2,665	2,832
13,300	1,150	1,732	2,167	2,472	2,665	2,843
13,400	1,154	1,738	2,175	2,481	2,675	2,854
13,500	1,158	1,745	2,183	2,491	2,685	2,864
13,600	1,163	1,751	2,191	2,500	2,695	2,875
13,700	1,167	1,758	2,199	2,509	2,705	2,885
13,800	1,172	1,765	2,208	2,519	2,715	2,896
13,900	1,176	1,771	2,216	2,528	2,725	2,907
14,000	1,181	1,778	2,224	2,537	2,735	2,917
14,100	1,185	1,785	2,232	2,547	2,746	2,928
14,200	1,190	1,791	2,240	2,556	2,756	2,938
14,300	1,194	1,798	2,248	2,565	2,766	2,949
14,400	1,198	1,804	2,256	2,574	2,776	2,960
14,500	1,202	1,811	2,264	2,584	2,786	2,970
14,600	1,207	1,817	2,272	2,593	2,796	2,981

14,700	1,211	1,824	2,280	2,602	2,806	2,991
14,800	1,216	1,831	2,289	2,612	2,816	3,002
14,900	1,220	1,837	2,297	2,621	2,826	3,013
15,000	1,225	1,844	2,305	2,630	2,836	3,023

Section 21. KRS 405.465 is amended to read as follows:

(1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the Cabinet for Human Resources or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.

(2) All child support orders and medical support insurance orders being established, modified, or enforced by the Cabinet for Human Resources, or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.

(3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the Cabinet for Human Resources[~~ or the domestic relations clerk of the court or other officer designated by the court to receive the payment,~~] that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.

(4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.

(5) The employer shall notify the cabinet when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.

(6) Any assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(7) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

Section 22. KRS 405.430 is amended to read as follows:

(1) ***When a parent presents himself to the cabinet for the voluntary establishment of paternity and clear evidence of parentage is not present, the cabinet shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.***

(2) The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

(3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, except for good cause. The request shall be supported by a sworn statement of the party.

(4) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

(5)[~~(2)~~] The cabinet shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.

(6)[~~(3)~~] ***When in the best interest of the child,*** the cabinet may ***review and adjust***[~~modify~~] a parent's child support obligation or child care obligation as established by the cabinet***, upon a request of the cabinet when an assignment has been made,***[~~ on its own~~] or upon ***either***[~~a~~] parent's petition ***if the amount of the child support awarded under the order differs from the amount that would be awarded in accordance with Section 20 of this Act. The cabinet shall notify parents at least once every three (3) years of the right to a review***[~~, but only upon a finding of the conditions described for judicial modification of a support order~~].

(7)[~~(4)~~] In establishing or modifying a parent's monthly child support obligation, the cabinet may ***use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with Section 20 of this Act. The cabinet shall*** utilize information***, including financial records,*** about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.

(8) In cases in which past due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act, the cabinet shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

(9) The cabinet may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the cabinet attempting to establish, modify, or enforce a child support obligation.

(10) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. sec. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.

(11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.

(12)[~~(5)~~] No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report,[~~ or~~] document*, or financial record* used in determining child support or child care obligations.

(13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal district court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:

(a) The sum of the greater of one thousand dollars ($1,000) for each act of unauthorized disclosure of financial records; or

(b) The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus

(c) If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.

Section 23. KRS 405.060 is amended to read as follows:

(1) Any sale or conveyance made to a purchaser with notice or for the benefit of any religious society, if made in fraud or hindrance of the right of wife or child to maintenance, shall be void as against the wife or child.

(2) In any case where an obligor transfers income or property to avoid payment to a child support creditor, the transfer shall be indicia of fraud. Indicia of fraud creates a prima facie case that the transfer of income or property was to avoid payment of child support. Indicia of fraud shall be set forth by administrative regulation.

(3) In any case in which the cabinet knows of a transfer by a child support obligor with respect to which a prima facie case is established, the cabinet shall:

(a) Seek to void the transfer; or

(b) Obtain a settlement in the best interests of the child support creditor.

Section 24. KRS 405.450 is amended to read as follows:

(1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing. The dispute hearing proceedings shall be conducted in accordance with KRS Chapter 13B.

(2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the final order.

(3) The parent or the cabinet may file an appeal in the Circuit Court in the county of the parent's or the child's residence in accordance with KRS Chapter 13B.

(4) The parent shall, during the pendency of his appeal from the final order, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the cabinet, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.

(5) If the cabinet elects to conduct the modification review as specified in subsection (6) of Section 22 of this Act, either party may contest the adjustment to the obligation amount within thirty (30) days after the date of the notice of the adjustment by requesting a review, and if appropriate, a request for adjustment of the order as permitted by this chapter.

Section 25. KRS 405.467 is amended to read as follows:

(1) All support orders issued by the Cabinet for Human Resources, including those issued pursuant to Part D, Title IV of the

Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.

(2) In any case in which a ***support order was issued in the state prior to October 1, 1994, and in which a*** parent is required to pay court ordered or administratively determined child support, medical support, maintenance, and medical support insurance, ***and*** wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any***, without the need for a judicial or administrative hearing***.

(3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer***, without the need for a judicial or administrative hearing***.

(4) ***The cabinet shall advise the obligated parent that a wage withholding has commenced within fourteen (14) days of the issuance***[~~Advance notice shall be sent to the obligor prior to the issuance of the order to withhold earnings~~]. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will ***continue***[~~occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the obligor of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the obligor with the information contained in any order served on the employer with respect to the withholding~~].

(5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.

(6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

(7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or Family Court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.

(8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively-ordered or judicially-ordered medical support obligation.

(9) ***The employer shall forward to the Cabinet for Human Resources that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.***

(10) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.

(11)[~~(10)~~] Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.

(12)[~~(11)~~] No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

(13)[~~(12)~~] The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(14)[~~(13)~~] Interstate requests for withholding of earnings shall be processed by the cabinet.

Section 26. KRS 406.021 is amended to read as follows:

(1) Paternity may be determined upon the complaint of the mother, putative father, child, person, or agency substantially contributing to the support of the child. The action shall be brought by the county attorney or by the Cabinet for Human Resources or its designee upon the request of complainant authorized by this section.

(2) Paternity may be determined by the District Court when the mother and father of the child, either:

(a) Submit affidavits in which the mother states the name ***and social security number*** of the child's father and the father admits paternity of the child; or

(b) Give testimony before the District Court in which the mother states the name ***and social security number*** of the child's father and the father admits paternity of the child.

(3) If paternity has been determined or has been acknowledged according to the laws of this state, the liabilities of the father may be enforced in the same or other proceedings by the mother, child, person, or agency substantially contributing to the cost of pregnancy, confinement, education, necessary support or funeral expenses. ***Bills for testing, pregnancy, and childbirth without requiring third party foundation testimony shall be regarded as prima facie evidence of the amount incurred.*** An action to enforce the liabilities shall be brought by the county attorney upon the request of such complainant herein authorized. An action to enforce the liabilities of the cost of pregnancy, birthing costs, child support, and medical support shall be brought by the county attorney or by the Cabinet for Human Resources or its designee.

(4) Voluntary acknowledgment of paternity pursuant to KRS 213.046 shall create a rebuttable presumption of paternity.

(5) Upon a showing of service of process on the defendant and if the defendant has made no pleading to the court or has not moved to enter evidence pursuant to KRS 406.091, the court shall order paternity to be established by default.

Section 27. KRS 406.025 is amended to read as follows:

(1) Upon completion of a signed, notarized, voluntary acknowledgment of paternity affidavit by the mother and alleged father, obtained through the hospital-based paternity program, and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for ***the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order***[~~one (1) year following the child's birth~~].

(2) Upon completion of a signed, notarized, voluntary acknowledgment of paternity affidavit by the mother and alleged father obtained outside of the hospital and submitted to the state registrar of vital statistics, paternity shall be rebuttably presumed for ***the earlier of sixty (60) days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a child support order***[~~one (1) year~~] following the date of signatures on the notarized affidavit.

(3) Pending an administrative or judicial determination of parentage, or upon a signed, notarized, voluntary acknowledgment of paternity form having been transmitted by the local registrar and received by the Office of Vital Statistics, a temporary support order shall be issued upon motion of any party if paternity is indicated by genetic testing or other clear and convincing evidence.

(4) The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(5) The court shall, within fourteen (14) days from the filing of the motion, order an amount of temporary child support based upon the child support guidelines as provided by Section 20 of this Act. The ordered child support shall be retroactive to the date of the filing of the motion to move the court to enter an order for temporary child support without written or oral notice to the adverse party. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by subsection (2)(a) of Section 18 of this Act. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(6) Unless good cause is shown, court or administratively ordered child support shall continue until final judicial or administrative determination of paternity.

Section 28. KRS 406.035 is amended to read as follows:

(1) If paternity has been determined under the provisions of subsection (1) or (2) of KRS 406.021, the court shall make a written order of paternity.

(2) ***Information concerning this action received or transmitted shall not be published or be open for public inspection, including where the cabinet determines reasonable evidence of domestic violence or child abuse, if the disclosure of***

the information could be harmful to the custodial parent or the child of the parent.

(3) Such orders are to be kept separately and shall not be open for public inspection except that they may be inspected by employees of governmental agencies in the performance of their duties, all law enforcement agencies including county attorneys, Commonwealth's attorneys, District and Circuit Court Judges, and anyone else under order of the court expressly permitting inspection. Either party to an action under this chapter or attorneys of a party to an action under this chapter shall be permitted to inspect the order entered in the action to which he is a party.

Section 29. KRS 406.061 is amended to read as follows:

To the extent necessary to conform to federal law, 42 U.S.C. sec. 666(a)(5)(I), no party shall be entitled to a trial by a jury in a paternity action[~~Either party to an action commenced under the provisions of this chapter may demand a jury trial of the facts in issue, or the court upon its own motion may grant a jury trial, in accordance with the provisions of the Rules of Civil Procedure~~].

Section 30. KRS 406.091 is amended to read as follows:

(1) ***An unchallenged acknowledgment of paternity shall be ratified without the requirement for judicial or administrative proceedings.*** If a genetic test is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret results and to report to the court.

(2) ***In a contested paternity case, the child and all other parties shall submit to genetic testing upon a request of any such party which shall be supported by a sworn statement of the party, except for good cause.***

(3) Genetic test results are admissible and shall be weighed along with other evidence of the alleged father's paternity.

(4)[~~(3)~~] Any objection to genetic testing results shall be made in writing to the court within twenty (20) days ***of receipt of genetic test results***[~~before a hearing at which the results may be introduced into evidence~~]. If the results of genetic tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or independent laboratory at the expense of the party requesting additional testing. If no objection is made, the test results are admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy.

(5)[~~(4)~~] Verified documentation of the chain of custody in transmitting the blood specimens is competent evidence to establish the chain of custody.

(6)[~~(5)~~] A verified expert's report shall be admitted at trial unless the expert is called by a party or the court as a witness to testify to his findings.

(7)[~~(6)~~] ***Except where the Cabinet for Human Resources administratively orders genetic testing,*** all costs associated with genetic testing shall be paid by the parties in proportions determined by the court.

(8) When administratively ordered, the cabinet shall pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established. The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.

Section 31. KRS 427.120 is amended to read as follows:

No part of any police or firefighters' pension fund established in a city of the first, second or third class shall, before or after its order for distribution to any person entitled thereto, be seized or levied upon by any writ or decree for the payment of any debt, claim or judgment against the beneficiary of the fund***, except for the payment of court or administratively ordered current child support, or child support owed, or to be owed***.

Section 32. KRS 427.125 is amended to read as follows:

No portion of a pension fund created under KRS 95.761 to 95.785 shall, before or after its order for distribution by the board of trustees to the persons entitled thereto, be held, seized, taken, subjected to or detained or levied upon by virtue of any attachments, execution, injunction, writ, interlocutory, or other order, or decree, or any process or proceeding whatever issued out of or by any court of this state for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary of said fund, ***except for court or administratively ordered child support, or owed or to be owed child support,*** but said fund shall be held and distributed for the purpose of KRS 95.761 to 95.785, and for no other purpose whatever.

Section 33. KRS 67A.620 is amended to read as follows:

The right to a retirement annuity, disability annuity, survivor's annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, garnishment, execution, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding***, except for court or administratively ordered current child support, or owed child support, or to be owed child support***.

Section 34. KRS 95.620 is amended to read as follows:

(1) Except ***for court or administratively ordered current child support, or owed child support, or to be owed child support, and except*** as provided in KRS 65.156 and subsections (2), (3) and (4) of this section, the policemen's and firefighters' pension fund in cities of the third or fourth class shall be held and distributed for the purpose of paying pensions and benefits, and for no other purpose.

(2) From July 15, 1982, and thereafter, the board of trustees of the pension fund shall, upon the request of a member, refund a member's contributions, including contributions picked up by the employer pursuant to KRS 65.155, upon that member's withdrawal from service prior to qualifying for pension. The member shall be entitled to receive a refund of the amount of contributions made by the member, including contributions picked up by the employer pursuant to KRS 65.155, after the date of establishment, without interest.

(3) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(4) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under the provisions hereof. After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to make a repayment to the system of the amount or amounts previously received as refund, including six percent (6%) interest from the dates of refund to the date of repayment. Such repayments shall not be picked up by the employer pursuant to KRS 65.155. Upon the restoration of such refunds, as herein provided, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service and shall be made in a single sum.

Section 35. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations ***and child support orders for current, owed, or to be owed child support,***[~~orders~~] issued by a court ***or administrative agency*** shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 36. KRS 161.700 is amended to read as follows:

(1) The right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment, or other process, and are unassignable except as provided in this chapter***, and except for court or administratively ordered current child support, owed child support, or to be owed child support***. Except retirement benefits accrued or accruing to any person under this retirement system on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be classified as marital property pursuant to KRS 403.190(1). Retirement allowance, disability allowance, accumulated contributions, or any other benefit under the retirement system shall not be considered as an economic circumstance during the division of marital property in an action for dissolution of marriage pursuant to KRS 403.190(1)(d).

Section 37. KRS 95.878 is amended to read as follows:

Except for court or administratively ordered current child support, owed child support, or to be owed child support, the right to a retirement annuity, disability annuity, survivors annuity or benefit, death benefit, or any other benefit under the provision hereof, by whatever name called, or refund, is personal with the recipient thereof, and the assignment, or transfer of such benefit or any part thereof shall be void, except as herein provided. Any such annuity, benefit, or refund shall not answer for debts contracted by the person receiving the same, and it is the intention of this section that they shall not be attached or affected by any judicial proceeding.

SECTION 38. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly that requirements relating to child support or paternity established by KRS Chapters 205, 403, 405, 406, and 407 shall be in compliance with the provisions of 42 U.S.C. sec. 651 et seq.

SECTION 39. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall have authority to issue an administrative subpoena commanding information and records relating to the establishment, enforcement, and collection of child support.

(2) All public and private entities including financial institutions shall comply with a subpoena issued under this section within a reasonable time period. Financial institutions may deduct twenty dollars ($20) from the account on which the subpoenaed information has been issued.

(3) The cabinet may enforce compliance by filing an action in the Franklin Circuit Court.

(4) The subpoena shall be issued by a person designated by the secretary.

SECTION 40. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall request information from a certified consumer reporting agency only when a full credit report is needed for the purpose of establishing an individual's capacity to make child support payments or to determine the obligation amount, and paternity has been established or acknowledged.

(2) The cabinet shall provide at least ten (10) days prior notice by certified mail to the obligor whose report shall be requested from a certified consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law, and 15 U.S.C. sec. 1681(i).

(a) The report will be kept confidential and be used solely for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of the payments; and

(b) The report will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.

(3) Methods by which an obligor may contest the accuracy of the information shall be set forth by administrative regulations promulgated by the cabinet.

SECTION 41. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In cases that are not being administered by the Cabinet for Human Resources, whenever a District or Circuit Court becomes aware that an individual has a child support arrearage that equals or exceeds the amount which would be owed after one (1) year of nonpayment, or that an individual fails after receiving appropriate notice to comply with subpoenas or warrants relating to paternity or child support proceedings, that court shall order the denial, suspension, or revocation of any professional, occupational, sporting, or recreational license or certification and shall forward the name of the individual to the board of license or certification.

(2) A court order of child support arrearages that equals or exceeds one (1) year's amount shall, in the absence of fraud, be conclusive, but any aggrieved person shall have the right to an appeal under the Kentucky Rules of Civil Procedure.

SECTION 42. A NEW SECTION OF KRS 405.405 TO 405.520 IS CREATED TO READ AS FOLLOWS:

(1) An employer or labor organization in the Commonwealth of Kentucky shall provide information to the Cabinet for Human Resources when that employer or labor organization hires an employee who resides or works in the Commonwealth, or rehires or permits the return to work of an employee who has been laid off, furloughed, separated, granted a leave without pay, or terminated from employment, unless the reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the secretary of human resources.

(2) The employer shall provide the information within twenty (20) days of the hiring or return to work of the employee. The information shall include:

(a) The employee's name, address, and social security number; and

(b) The employer's name, address, and, if the employer has been assigned one, federal and state employer identification numbers.

(3) An employer shall report the required information by submitting a copy of the employee's W-4 form or, at the option of the employer, an equivalent form provided by the Cabinet for Human Resources as prescribed by administrative regulation promulgated by the Cabinet for Human Resources in accordance with KRS Chapter 13A.

(4) The Cabinet for Human Resources shall enter all new hire information into the database of the cabinet within five (5) business days.

(5) An employer shall not be required to report the information when the hiring, rehiring, or returning to work involves:

(a) An employee to whom the employer pays wages of less than three hundred dollars ($300) each month; or

(b) An employee who is under eighteen (18) years of age.

(6) The Cabinet for Human Resources may promulgate administrative regulations in accordance with KRS Chapter 13A if the Cabinet for Human Resources determines exceptions are needed to reduce unnecessary or burdensome reporting or are needed to facilitate cost-effective operation of the cabinet under this section.

(7) The Cabinet for Human Resources shall use the information collected pursuant to this section for the location of noncustodial parents, establishment, modification, and enforcement of child support and any other matter related to paternity or child support.

(8) If the employer fails to report as required by this section, the Cabinet for Human Resources shall give the employer written notice of the provisions of this section, including the penalty for failure to report.

(9) If the employer has not filed a report within twenty (20) days from the date that the written notice is sent to him, the Cabinet for Human Resources shall send a second written notice.

(10) If the employer fails to file a W-4 or equivalent form within twenty (20) days from the date that the second written notice is sent, or supplies a false or incomplete report, and the failure is a result of a conspiracy between the employee and the employer to prevent the proper information from being filed within twenty (20) days from the date that the second written notice is sent, the Cabinet for Human Resources shall send the employer by certified mail, return receipt request, notice of an administrative fine. The fine shall be two hundred fifty dollars ($250) per calendar month per person for any violation occurring after the second notice has been given, and continuing until a W-4 or equivalent form is received by the Cabinet for Human Resources. No fine shall be imposed for any period of less than one (1) full calendar month.

(11) The employer shall have ten (10) days after receipt of the administrative fine notice to request a hearing before the Cabinet for Human Resources on whether the administrative fine was properly assessed. If a timely request for a hearing is received, the Cabinet for Human Resources shall schedule and conduct a hearing in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.

SECTION 43. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) Financial institutions doing business in the Commonwealth shall enter into cooperative agreements with the cabinet or its designee to operate a data match system. Pursuant to the agreements, the financial institution shall be required to provide identifying information each calendar quarter for each obligated parent who maintains an account at the institution and who owes an arrearage, and who shall be identified by the cabinet.

(2) The cooperative agreement shall include provisions for financial institutions to encumber or surrender assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to Section 49 of this Act.

(3) The financial institution shall be paid a fee for conducting data matches from the obligor's account, not to exceed the actual cost.

(4) No liability shall arise for the Commonwealth or the financial institution under this section with respect to any disclosure of financial records for the establishment, modification, or enforcement of a child support obligation of the individual.

(5) The financial institution shall not be liable for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the cabinet, for any other action taken in good faith to comply with the requirement of this section.

(6) "Financial institution" means:

(a) A depository institution and an institution-affiliated party as defined by 12 U.S.C. sec. 1813(c) and (u);

(b) Any federal or state credit union, including an institution-affiliated party of that credit union, as defined by 12 U.S.C. sec. 1752 and 12 U.S.C. sec. 1786(r);

(c) Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage firm, trust company, or similar entity authorized to do business in the Commonwealth.

(7) The cabinet may promulgate administrative regulations to implement the requirements of this section.

SECTION 44. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Revenue Cabinet and the Cabinet for Human Resources shall design, develop, implement, and operate a wage reporting and financial institution match system for the purpose of identifying the financial assets of individuals as identified by cabinet agencies, for the purpose of administering the tax laws, and the child support enforcement program of the Commonwealth. The Kentucky Revenue Cabinet and the Cabinet for Human Resources may promulgate administrative regulations to implement this section.

(2) Each financial institution in the Commonwealth shall enter into an agreement with the Revenue Cabinet and the Cabinet for Human Resources to develop and operate a data match system to facilitate identification of financial assets of individuals identified by cabinet agencies for the purpose of administering the tax laws, and the child support enforcement programs of the Commonwealth.

SECTION 45. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) The Revenue Cabinet shall request not more than quarterly, from each financial institution as defined in subsection (5) of this section, the name, record address, social security number, and other identifying data for each person listed in the request who maintains an account at that institution. The Revenue Cabinet shall update the listing every calendar quarter.

(2) All requests made by the Revenue Cabinet pursuant to subsection (1) of this section shall be in machine-readable form unless the financial institution expressly requests the Revenue Cabinet to submit a request in writing. The institution shall furnish all information on those persons whose accounts on the books of the institution have a residential address within the Commonwealth at the time the request is processed by the institution.

(3) The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost incurred by such financial institution, and may assess and recover actual costs incurred from responsible persons identified as a result of the data match. In addition, the cabinet may pay the costs to the financial institution when computer or system changes are necessary to facilitate operation of the data match system required by this section.

(4) At its option, a financial institution may, within thirty (30) days of the end of the first quarter of every calendar year, submit to the Revenue Cabinet a report of the name, record address, social security number, and other identifying data of each person maintaining an account at such institution. Within thirty (30) days of the end of each subsequent quarter of every calendar year, every financial institution electing this option shall submit to the Revenue Cabinet a supplemental report regarding each new account opened by a person during the quarter and each account reported in a prior quarter that has been closed during the most recent quarter. The information shall be submitted in a machine-readable form that is satisfactory to the Revenue Cabinet. A financial institution filing reports under this subsection shall not be required to comply with subsection (1) of this section.

(5) For the purposes of this section, "financial institution" or "institution" means every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state chartered credit unions, benefit associations, insurance companies, safe deposit companies, and money-market mutual fund, brokerage, and trust companies, and any entity similar to the foregoing authorized to do business in the Commonwealth.

(6) For the purposes of this section, "money-market mutual fund" means each regulated investment company within the meaning of 26 U.S.C. sec. 851(a) of the Internal Revenue Code which seeks to maintain a constant net asset value of one dollar ($1) in accordance with 17 C.F.R. sec. 270.2a-7.

(7) For the purposes of this section, "account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or a money-market mutual fund account.

(8) For the purposes of the reports required by subsection (1) of this section, a financial institution shall be obligated to match and provide the account title, record address and social security or tax identification number only for those accounts for which a social security or tax identification number is provided by the cabinet. The financial institution shall have no obligation to match an account based on a name or other identifying information. An account with multiple owners or persons having an interest in the account shall be deemed to be maintained only by the person whose social security number or other taxpayer identification number is shown on the records of the financial institution with respect to the account.

SECTION 46. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

No employee or agent of the Commonwealth shall divulge any information referred to in KRS 205.715 to 205.800, except in the manner prescribed in KRS 205.715 to 205.800 to any public or private agency or individual; provided, however, that information may be disclosed and shared by and between any employee of the Cabinet for Human Resources and any designee, local administering agency, or any local housing authority for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs included in the reporting system. Unauthorized disclosure of any information shall be a violation that is punishable by a fine of one hundred dollars ($100) per offense; except that the unauthorized release of the information about any individual shall be a separate offense from information released about any other individual.

SECTION 47. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 205.715 to 205.800 shall be construed to prevent the release by the Revenue Cabinet or the Cabinet for Human Resources of wage and financial institution information data to the United States Social Security Administration or the agencies of other states who administer federally funded welfare and unemployment compensation programs.

SECTION 48. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) A financial institution furnishing a report or providing tax information to the Revenue Cabinet or furnishing a report or providing asset information of an individual owing past due support to the Cabinet for Human Resources under either subsection (1) or subsection (2) of Section 44 of this Act shall not disclose to a depositor or an account holder that the name of that person has been received from or furnished to the Revenue Cabinet or the Cabinet for Human Resources; except that an institution may disclose to its depositors or account holder that under the financial institution match system the Revenue Cabinet and the Cabinet for Human Resources has the authority to request certain identifying information on certain depositors or account holders.

(2) If a financial institution willfully violates the provisions of this section by releasing tax information, that institution shall pay to the Revenue Cabinet the lesser of one thousand dollars ($1000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(3) If a financial institution willfully violates the provisions of this section by releasing asset information of an individual owing child support to the Cabinet for Human Resources, the institution shall pay to the Cabinet for Human Resources the lesser of one thousand dollars ($1000) or the amount on deposit or in the account of the person to whom the disclosure was made.

(4) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising form the furnishing of a report or information to the Revenue Cabinet and the Cabinet for Human Resources under Section 44 of this Act, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list furnished by the financial institution to the Revenue Cabinet and the Cabinet for Human Resources, or in a report furnished by the financial institution to the Revenue Cabinet and the Cabinet for Human Resources.

(5) Regardless of whether the action was specifically authorized or described in KRS 205.715 to 205.800 or an agreement, a financial institution shall not be liable for providing or disclosing of any information; for encumbering, holding, refusing to release, surrendering or transferring any account balance or asset; or any other action taken by a financial institution pursuant to this Act or agreement as required by Section 44 of this Act.

(6) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to KRS 205.715 to 205.800 or the agreement and shall not be liable for failure to provide that notice; provided however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the cabinet has the authority to request certain identifying information on certain depositors or account holders.

(7) A financial institution may charge an account levied on by the Revenue Cabinet and the Cabinet for Human Resources a fee, as determined by either cabinet, of not less than twenty dollars ($20) nor more that fifty dollars ($50) which shall be deducted from the account prior to remitting any funds to the Revenue Cabinet or the Cabinet for Human Resources.

SECTION 49. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) When the cabinet determines that the name, record address, and either social security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the social security number or taxpayer identification number of a noncustodial parent who owes past due support, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The cabinet shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to block or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a notice of lien or order to withhold and deliver.

(2) The individual subject to a child support lien or levy on assets in an account held by a financial institution shall be informed by the notice of lien or levy to withhold and deliver in accordance with the provisions of subsection (1) of this section.

(3) A financial institution ordered to block or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is blocked or encumbered.

(4) Any levy issued on an identified account by the Cabinet for Human Resources for past due child support shall have first priority over any other lien or levy issued by the Revenue Cabinet or any other agency, corporation, or association.

SECTION 50. A NEW SECTION OF KRS 205.715 TO 205.800 IS CREATED TO READ AS FOLLOWS:

(1) An interstate lien may be created and a notice of interstate lien may be filed on all of an obligor's real and personal property that is located in another state to enforce a child support obligation which has been judicially or

administratively established in the Commonwealth. The lien shall be filed in the appropriate offices of the state or county where the property of the obligor is located. All aspects of the lien, including its priority and enforcement, are governed by the law of the state where the property is located and shall remain until released by the authorized agent of the party which filed the lien, or in accordance with the laws of the state of filing.

(2) A lien to enforce a child support obligation which is created in another state shall be enforceable against all real and personal property of the obligor located in this state upon the filing of a notice of interstate lien with the county clerk of any county or counties in which the obligor has interest in property, and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the party which filed the notice of interstate lien shall disclose the specific amount of liability to any interested party legally entitled to that information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county. The lien shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien shall attach to all interest in the real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee of ten dollars ($10) for filing the lien and the same fee for releasing the lien.

(3) A child support lien created in another state shall be on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance created after the notice of interstate lien is recorded; however, it shall be subordinate to any child support lien which has been or may be filed by the cabinet as to the same obligor and property.

(4) The authority by which the child support lien is created in another state and filed in this state shall be certified on the notice of interstate lien by a person who is authorized to certify on behalf of the party that is filing the notice of interstate lien.

(5) The secretary of the cabinet may promulgate administrative regulations under the provisions of KRS Chapter 13A to implement this section.

Section 51. KRS 403.215 is amended to read as follows:

After July 15, 1990, any new or modified order or decree which contains provisions for the support of a minor child or minor children, shall provide for a wage assignment which shall begin immediately except for good cause shown***, and which shall be paid based upon the payment schedule of wages of the employer to whom the wage assignment is directed, and at a minimum, on a monthly basis***. If good cause is shown, the wage assignment shall take effect when an arrearage accrues that is equal to the amount of support payable for one (1) month, pursuant to KRS 405.465.

Section 52. KRS 405.991 is amended to read as follows:

(1) Any person or corporation violating the provisions of KRS 405.465 or 405.467 shall be fined not more than five hundred dollars ($500) or be imprisoned in the county jail for not more than one (1) year, or both.

(2) A person who violates KRS 405.490(2) shall pay the cabinet the value of the property ordered to be held or the delinquent child support, whichever is lesser, plus interest thereon at the legal rate for judgments, court costs and reasonable attorney's fees.

(3) A person who violates KRS 405.430***(12)***~~[(5)]~~ shall be guilty of a Class A misdemeanor and, in addition to any other penalties provided by law, shall be responsible for payment of any difference between the amount of child support calculated using the correct information and the prior calculation using the false information.

Section 53. If the reorganization of the Cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, references in this Act to the Cabinet for Human Resources shall be codified as the Cabinet for Families and Children, unless the context clearly requires otherwise.

The Committee Amendment No. 1 to the Committee Substitute to **HB 161** is as follows:

On page 13, line 23, By inserting after the word "***fact***" the following phrase: "***and the reasonableness of a payment schedule***";

And on page 17, line 24, By deleting "***In accordance***";

And also on page 17, By deleting lines 25 and 26 in their entirety;

And also on page 17, line 27, By inserting after "***(2)***" the following new sentence: "***The lien shall be on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance hereafter created, is hereby created in favor of the cabinet upon all property of an obligor.***";

And on page 18, line 7, By inserting after "***county***" the following: "***, except that nothing in this chapter shall be***

construed to alter or change in any way the law relative to the right and duties of a holder in due course as provided in KRS Chapter 355, Article 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice";

And on page 55, line 27, By inserting after "***requested***" the following new sentence: "***The motion shall be served upon the adverse party at the last known address.***";

And on page 56, line 5, By deleting the phrase "***without written or oral notice to the adverse party***";

And on page 57, line 5, By deleting the phrase "***To the extent necessary to conform to federal law, 42 U.S.C. sec. 666 (a)(5)(l),***".

The Committee Amendment No. 2 to the Committee Substitute to **HB 161** is as follows:

On page 57, line 5, By deleting "***(l)***" and inserting in lieu thereof "***(I)***";

On page 69, line 19, By inserting after "***based***" the word "***only***".

The Committee on Appropriations and Revenue reported **HB 388,** with Committee Amendment attached thereto, and **HB 389,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 388, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.810 is amended to read as follows:

(1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.

(2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.

(3) [~~Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent.~~]Any taxes which are not paid within ***one (1) month***[~~thirty (30) days~~] of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of ***twelve***[~~fifteen~~] percent ***(12%)***[~~(15%)~~] shall accrue on ***the***[~~said~~] taxes and penalty from the date of delinquency. No penalty or interest shall accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.

(4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner of record on January 1 of any year shall be liable for the taxes on the motor vehicle, except as[~~ hereinafter~~] provided ***in this section***.

(5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of ***the***[~~his~~] second ***occurrence of the owner's*** birth month following the month and year in which ***the owner***[~~he~~] applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.

(6) For purposes of the state ad valorem tax only, all motor vehicles held for sale by a licensed Kentucky dealer on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485(3) but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(9) and 132.220.

(7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.

(8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of one dollar ($1) shall be added to the delinquent tax account. The fee shall be

collected and retained by the county clerk who collects the delinquent tax.

(9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Section 2. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1990, a tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand (10,000) pounds, the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When ***collecting***[~~he collects~~] the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state; ***or***

(b) [~~Or~~]Upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on those forms as the cabinet may prescribe. The county clerk shall for his ***or her*** services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is[~~ then~~] being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or ***the owner's***[~~his~~] agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a person offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is[~~ then~~] being offered for registration for the first time, unless the seller or ***the seller's***[~~his~~] agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(9) and (10), in no case shall the tax be less than five dollars ($5) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470.

(8) ***When***[~~Where~~] a motor vehicle is ***returned***[~~sold by a dealer in this state and the purchaser returns the vehicle for any reason~~] to the ***seller***[~~same dealer~~] within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle.[~~ In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.~~]

(9) When a ***dealer or*** manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. No person shall be entitled to a refund unless ***the person files***[~~he shall have filed~~] with the Revenue Cabinet a report from the ***dealer or*** manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. No person shall be entitled to a refund unless ***the person files***[~~he shall have filed~~] with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced.

(11) When a refund of the usage tax has been issued upon the return of a new motor vehicle under the provisions of subsections (8), (9), or (10) of this section, the "retail price" of the vehicle upon resale by the dealer shall be the same as determined in subsection KRS 138.450(9)(b) or (c), except that the provisions of paragraph KRS 138.450(9)(d) shall not apply.

Section 3. The amendment contained in Section 1 of this Act shall apply to taxes that become delinquent on or after

August 1, 1998. The amendment contained in Section 2 of this Act shall apply to motor vehicles returned on or after August 1, 1998.

The Committee Amendment No. 1 to **HB 388** is as follows:

On page 1, line 11, by deleting the opening bracket and strikethroughs; and

On page 1, lines 12 and 13, by deleting the strikethroughs; and

On page 1, line 14, by deleting the strikethrough from "delinquent.", and by deleting the closing bracket following the "."; and

On page 1, line 11. after "within" by inserting "***one (1) month***"; and

On page 1, line 11, by inserting an opening bracket before "thirty", by striking through "thirty (30) days" and by placing a closing bracket after "days".

HB 389, AN ACT relating to inheritance tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.070 is amended to read as follows:

The tax upon transfers of property as defined in the preceding sections of this chapter shall be at the following rates:

(1) Class A. In case the transfer is to or for the benefit of a parent, surviving spouse, child by blood, stepchild, child adopted during infancy, child adopted during adulthood who was reared by the decedent during infancy or a grandchild***, great-grandchild, or great-great-grandchild*** who is the issue of a child by blood, the issue of a stepchild, the issue of a child adopted during adulthood who was reared by the decedent during infancy, the issue of a child adopted during infancy, ***daughter-in-law, son-in-law,*** brother, sister, or brother or sister of the half blood, the tax, subject to the provisions of KRS 140.080, shall be:

On its value not exceeding $20,000	2%
On its value exceeding $20,000, but not exceeding $30,000	3%
On its value exceeding $30,000, but not exceeding $45,000	4%
On its value exceeding $45,000, but not exceeding $60,000	5%
On its value exceeding $60,000, but not exceeding $100,000	6%
On its value exceeding $100,000, but not exceeding $200,000	7%
On its value exceeding $200,000, but not exceeding $500,000	8%
On its value exceeding $500,000	10%

(2) Class B. In case the transfer is to or for the benefit of a nephew, niece, or a nephew or niece of the half-blood,~~[daughter-in-law, son-in-law,]~~ aunt***,*** or uncle,~~[or a great grandchild who is the grandchild of a child by blood, of a stepchild or of a child adopted during infancy,]~~ the tax, subject to the provisions of KRS 140.080, shall be:

On its value not exceeding $10,000	4%
On its value exceeding $10,000, but not exceeding $20,000	5%
On its value exceeding $20,000, but not exceeding $30,000	6%
On its value exceeding $30,000, but not exceeding $45,000	8%
On its value exceeding $45,000, but not exceeding $60,000	10%
On its value exceeding $60,000, but not exceeding $100,000	12%
On its value exceeding $100,000, but not exceeding $200,000	14%
On its value exceeding $200,000	16%

(3) Class C. In case the transfer is to or for the benefit of any educational, religious, or other institutions, societies, or associations, or to any cities, towns, or public institutions not exempted by KRS 140.060, or to any person not included in either Class A or Class B, the tax, subject to the provisions of KRS 140.080 shall be:

On its value not exceeding $10,000	6%
On its value exceeding $10,000, but not exceeding $20,000	8%
On its value exceeding $20,000, but not exceeding $30,000	10%
On its value exceeding $30,000, but not exceeding $45,000	12%
On its value exceeding $45,000, but not exceeding $60,000	14%

On its value exceeding $60,000 .... 16%

Section 2. KRS 140.160 is amended to read as follows:

(1) The Revenue Cabinet shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The cabinet shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The cabinet may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the cabinet, and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. The personal representative shall in every case, when he files his inventory in the District Court, file a duplicate[~~ thereof~~] with the cabinet. The personal representative***, or the beneficiaries in the absence of a personal representative,*** shall compute the taxes imposed by this chapter on the tax return provided by the cabinet ***when:***

(a) 1. A United States estate tax return is required to be filed under federal law and applicable regulations; and

2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or

(b) Any assets from the estate subject to the taxes imposed by this chapter pass to a Class B or C beneficiary as defined in Section 1 of this Act.

The tax return***, when required,*** shall be filed with the cabinet within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 3. KRS 140.190 is amended to read as follows:

(1) All taxes imposed by this chapter shall be computed and paid on the fair cash value of the property transferred at the rates provided. All personal representatives, trustees and beneficiaries shall be personally liable for the taxes until they are paid, but only to the extent that ***property from the estate***[~~same~~] come into their hands, and in no case shall the personal representative or trustee be liable for a greater sum than passes through his administration.

(2) The heir, devisee or other donee shall be personally liable for the tax on real property, as well as the personal representative or trustee, and if the personal representative or trustee pays the tax he may, unless the tax is made an expense of administration by the will or other instrument, recover the tax from the heir, devisee or other donee of the real property.

(3) The taxes shall be and remain a lien upon the property transferred and upon all property acquired by the personal representative or trustee, until the taxes are paid or a bond given as provided in KRS 140.210. The lien may be enforced as other liens on similar property are enforced ***and***[~~. The lien shall not affect any personal property after it has passed to a bona fide purchaser for value, but the owner of securities may not have them transferred to him by the issuing corporation until the permit required by this chapter has been filed. The lien upon any real property~~] may be discharged by the payment of all taxes due and to become due.

[~~(4) When a conveyance made by a decedent in his lifetime is subject to the tax, and the property thus conveyed is personal property without the state or is removed from the state before the tax is paid, the tax shall become a lien upon all property of the decedent; the personal representative shall collect the taxes due on account of the conveyance, and may be authorized to sell any property subject to the lien for the payment thereof, as in other cases.~~]

Section 4. KRS 140.240 is amended to read as follows:

The personal representative***, or the beneficiaries in the absence of a personal representative,*** of any estate from which a tax is or may be due may make an estimate agreeable to the Revenue Cabinet and pay that amount to the cabinet, which shall receipt therefor, at any time before the amount of tax is determined, and shall thereupon be entitled to the discount ***provided under KRS 140.210(1)*** and be relieved of interest and penalty. Permits shall then be issued for the transfer of[~~ securities or~~] real property ***to a Class B or C beneficiary as defined in Section 1 of this Act*** upon the amount[~~ so~~] paid in the same manner as if the tax were then determined. Any excess[~~ so~~] paid shall be refunded to the person paying or entitled thereto, out of the general fund in the same manner and subject to the same conditions as other refunds are made except that, the request for the refund may be made at any time within two (2) years after the date of the final assessment made by the cabinet.

Section 5. KRS 140.250 is amended to read as follows:

(1)[~~ No safe deposit company, trust company, bank or other institution or person engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first requiring all persons given access thereto to agree in writing to notify the safe depository, bailee or lessor, from whom the box or receptacle is rented, of the death of any person having the right of access thereto, before seeking access to such box or receptacle after the death of such person. All persons having the right of access to any such safe deposit box or receptacle, before seeking access to the box or receptacle after the death of any other person having access thereto, must notify the depository, bailee or lessor, from whom the box or receptacle is rented, of the death of such person.~~

~~(2) No safe deposit company, trust company, bank or other institution or person having in possession or under control, custody or partial custody any safe deposit box or similar receptacle shall permit access thereto by anyone after the death of any person who, at the time of his death, had the right or privilege of access thereto either as principal, deputy, agent or cotenant, without the consent of the Revenue Cabinet or a person authorized by it to issue such consent.~~

~~(3)~~] No[~~ safe deposit company,~~] trust company, bank***, credit union, savings and loan company, business operating as a broker-dealer*** or other institution or person having in possession or under full or partial control or custody securities, deposits or other ***intangible personal*** property, including the shares of the capital stock of, or other interest in, the[~~ safe deposit company,~~] trust company, bank***, credit union, savings and loan company, business operating as a broker-dealer*** or other institution, belonging to or standing in the name of a decedent[~~ or in the joint name of a decedent and another person~~], shall deliver or transfer the ***intangible*** property ***with an aggregate value of greater than ten thousand dollars ($10,000)*** to personal representatives, agents, deputies, attorneys, trustees, legatees, heirs or successors in interest of the decedent or to any other person,[~~ or to the survivor when held in the joint names of the decedent and another person, or upon their order or request,~~] without ***first obtaining a completed notice of the transfer, in the form prescribed by the cabinet, from the personal representative of the estate or the individual desiring to transfer the property out of the decedent's name. For the notice to be valid, it shall be filed with the cabinet within thirty (30) days of the date that the property was transferred out of the decedent's name by the trust company, bank, credit union, savings and loan company, business operating as a broker-dealer or other institution or person.***

(2) The notice required by subsection (1) of this section is not required if the aggregate value of the property transferred is ten thousand dollars ($10,000) or less, or if the property is transferred or passes directly and exclusively at death from the decedent to a Class A beneficiary as defined in Section 1 of this Act[~~retaining a sufficient portion thereof to pay any tax and interest that may thereafter be assessed thereon under this chapter, nor unless notice of the time and place of such delivery or transfer is served upon the Revenue Cabinet at least thirty (30) days prior to the proposed delivery or transfer. The cabinet or a person authorized by the secretary of revenue in writing may consent in writing to the delivery or transfer, and such consent shall relieve the safe deposit company, trust company, bank or other institution or person from the obligation under this section to give notice or to retain any portion of the property of the decedent in its lawful possession or control.~~

~~(4) The cabinet may examine the property at the time of delivery or otherwise~~].

(3)[~~(5)~~] Any[~~ safe deposit company,~~] trust company, bank***, credit union, savings and loan company, business operating as a broker-dealer*** or other institution or person failing to comply with the provisions of this section shall be liable for the amount of taxes, interest and penalties due under this chapter on the property[~~ mentioned in this section~~]. The penalties and liabilities for the violation of this section may be enforced in an action brought by the cabinet in any court of competent jurisdiction.

(4)[~~(6)~~] (a) Notwithstanding the foregoing provisions, securities owned by a nonresident decedent, or in which a nonresident decedent has an interest, may be transferred as permitted by law upon the filing with the transfer agent of the statement prescribed by paragraph (b) of this subsection;

(b) The statement required by paragraph (a) of this subsection prior to the transfer of stock owned by, or in which an interest is held by, a nonresident shall state that the nonresident decedent had no property subject to the Kentucky inheritance and estate tax, the reason therefor, and shall be in ***a***[~~such~~] form as the cabinet may prescribe; and

(c) The statement shall be filed by the personal representative of the nonresident decedent and a copy[~~ thereof~~] shall be furnished to the Revenue Cabinet by the transfer agent.

Section 6. KRS 140.260 is amended to read as follows:

Notwithstanding any of the provisions of this chapter, any life insurance company may pay the proceeds of any policy[~~ taxable under KRS 140.030~~] upon the life of a decedent or the balance due at the death of the decedent on an annuity contract to the person entitled thereto as soon as it has mailed to the Revenue Cabinet[~~ a~~] notice ***of the payment***, in ***a***[~~such~~] form[~~ as~~] the cabinet may prescribe***. The notice is not required for any payment of ten thousand dollars ($10,000) or less, or for any payment of an insurance policy upon the life of a decedent to a designated beneficiary other than the estate or the executor or administrator of the estate, or for any payment to a Class A beneficiary as defined in Section 1 of this Act***[~~, setting forth~~

~~the fact of such payment. The cabinet may by regulation dispense with the requirement for this notice as to payment of policy proceeds amounting to one thousand dollars ($1,000) or less~~].

Section 7. KRS 140.265 is amended to read as follows:

Notwithstanding any of the provisions of this chapter, any employer or insurance company may pay the proceeds[~~ where same are not in excess of twenty-five thousand dollars ($25,000)~~] of any profit sharing, stock bonus, thrift, or pension plan due at the death of the decedent to the person entitled thereto as soon as it has mailed to the Revenue Cabinet a notice, in a form as the cabinet may prescribe, setting forth the fact of the payment. The ***notice is not required for any payment of proceeds of twenty-five thousand dollars ($25,000) or less, or for any payment to a Class A beneficiary as defined in Section 1 of this Act***[~~cabinet may by administrative regulation dispense with the requirement for this notice as to payment of proceeds amounting to one thousand dollars ($1,000) or less~~].

Section 8. KRS 140.152 is amended to read as follows:

The provisions of KRS 140.070 ***and***[~~,~~] 140.080[~~ and 140.151~~] shall apply when death occurs on or after July 1, 1978.

Section 9. KRS 289.391 is amended to read as follows:

(1) When a savings account is opened in any association or federal savings and loan association, in the names of two (2) or more persons, whether minor or adult, in ***a***[~~such~~] form that the moneys in the account are payable to either or the survivor or survivors, then ***the***[~~such~~] account and all additions[~~ thereto~~] shall be the property of ***the***[~~such~~] persons as joint tenants. The moneys in ***the***[~~such~~] account may be paid to or on the order of any one (1) of ***the***[~~such~~] persons during their lifetimes, or to or on the order of any one (1) of the survivors of them after the death of any one (1) or more of them. The opening of the account in ***this***[~~such~~] form shall, in the absence of fraud or undue influence, be conclusive evidence in any action or proceeding to which either the association or the surviving party or parties is a party, of the intention of all of the parties to the account to vest title to ***the***[~~such~~] account and the additions ***to the account***[~~hereto~~] in ***the***[~~such~~] survivor or survivors. By written instructions given to the institution by all the parties to the account, the signatures of more than one (1) of ***the***[~~such~~] persons during their lifetimes or of more than one (1) of the survivors after the death of any one (1) of them may be required on any check, receipt, or withdrawal order, in which case the institution shall pay the moneys in the amount only in accordance with ***the***[~~such~~] instructions, but no[~~ such~~] instructions shall limit the right of the survivor or survivors to receive the moneys in the account.

(2) Payment of all or any of the moneys in ***the***[~~such~~] account as provided in subsection (1) shall discharge the institution from liability with respect to the moneys[~~ so~~] paid, prior to receipt by the institution of a written notice from any one (1) of them directing the institution not to permit withdrawals in accordance with the terms of the account or the instructions. After receipt of ***a***[~~such~~] notice an institution may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties. Subject to the provisions of KRS 140.250, subsection ***(1)***[~~(3)~~], no liability shall attach to an institution paying any survivor in accordance with the terms of the account or the instructions. After receipt of ***a***[~~such~~] notice an institution may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.

Section 10. KRS 395.605 is amended to read as follows:

(1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding settlement of fiduciaries[~~,~~] accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which ***the***[~~said~~] claims and debts have been provided for; that ***the requirements of the***[~~all~~] inheritance, estate or similar death ***tax statutes***[~~taxes~~] have been ***met and the tax*** paid***, if due and payable,*** and a duplicate or photocopy of ***the***[~~such~~] tax ***lien*** releases shall be attached, if ***applicable***[~~available~~]; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his ***or her*** share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal settlement, the court may enter an order discharging the fiduciary, and ***the fiduciary's***[~~ his~~] surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.

(2) If a proposed settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section. Provided, ***that***[~~however,~~] no verified waiver need be obtained from a nonresiduary legatee who has received and receipted for his ***or her*** legacy, the canceled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction. The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.

(3) In the event that one or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

Section 11. KRS 140.990 is amended to read as follows:

(1) Any person charged with a duty in this chapter who fails or refuses to perform that duty shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100).

(2) Any person who violates subsection (3) of KRS 140.170 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or imprisoned in the county jail for sixty (60) days, or both, and in addition the court shall dismiss him from service as an appraiser.

(3) Any person who violates subsection (4) of KRS 140.170 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than twelve (12) months, or both.

(4) Any person who fails to comply with the provisions of KRS 140.250 shall be liable to a penalty of not more than twenty thousand dollars ($20,000), in addition to the liability imposed by subsection ***(3)***~~[(5)]~~ of KRS 140.250.

Section 12. The following KRS sections are repealed:

140.064 Exemption of $7,500 received by surviving spouse or surviving children from testator's estate.
140.151 Payment of taxes on farms or other closely-held businesses.
140.300 Definitions for KRS 140.310 to 140.360.
140.310 Assessment of agricultural or horticultural land for inheritance tax purposes.
140.320 Taxation of land converted from agricultural use.
140.330 Land presumed assessed at agricultural value -- Procedure when not so assessed.
140.340 Reporting of qualified real estate at agricultural or horticultural value.
140.350 Issuance of tax waivers -- Liens -- Procedure.
140.360 Limit on reduction of taxable value.

The Committee Amendment No. 1 to **HB 389** is as follows:

On page 8, by deleting Section 8 of the bill, consisting of lines 18 through 20, and by renumbering subsequent sections accordingly; and

On page 11, after line 19 but before line 20, by inserting: "140.152 Applicability of KRS 140.070, 140.080, and 140.151."

The Committee on State Government reported **HB 234**, with Committee Substitute attached thereto, **HB 245**, **HB 284**, **HB 287**, with Committee Substitute attached thereto, **HB 304**, and **HB 382** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 234, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee

contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the five (5) year period, multiplied by twelve (12); the five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of ***the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an act in line of duty shall mean an act occurring which was required in the performance of the principal duties of the position as approved by the board***[~~duty~~];

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a

retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;[~~ and~~]

(31) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests***;***

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year; and

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).

(2) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing to~~] another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 3. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer ***as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630*** shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment***, as defined in Section 1 of this Act,*** as a regular full-time officer or in a regular full-time hazardous position ***under KRS 61.592***;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application ***based on the same claim of incapacity*** shall be accepted ***and considered for disability*** for any person who has previously applied for and been denied disability benefits unless ***it***[~~an application based on the same claim of incapacity~~] is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally-appointed guardian, or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 4. KRS 16.596 is amended to read as follows:

Once each year following the retirement of a member on a disability retirement allowance, ***or less frequently as determined by the board's medical examiner but not less than once every five (5) years,*** the system may require the member, prior to his normal retirement date, to undergo a medical examination and financial review. If the member refuses to submit to the medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if he continues to refuse for one (1) year, all his rights to any further disability allowance shall cease.

Section 5. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;[~~and~~]

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699***; and***

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592.

Section 6. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant

to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour work days, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30***, which shall also be the plan year***;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

  (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

  (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

  (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

  (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;[~~ and~~]

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests***; and***

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 7. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing to~~] another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems; and

(8) Employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 8. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) ***(a)*** Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers, may purchase service credit for previous years by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay the employer contributions plus interest and the employee shall pay the employee contributions plus interest. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) ***(a)*** An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 9. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees

Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) ***After***[~~Effective~~] August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14), (15), and (17) to ***(25)***[~~(19)~~] of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to

the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) ***After August 1, 1998,*** any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months service ***credit in the Kentucky Employees Retirement System or the County Employees Retirement System*** or, if younger, who has sixty (60) months service ***credit in the Kentucky Employees Retirement System or the County Employees Retirement System*** may purchase credit in the ***system in which the employee has the service credit***~~[Kentucky Employees Retirement System]~~ for up to ten (10) years service in a regular full-time position that was credited to a state or local government administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) ***After August 1, 1998,*** any employee participating in ***one (1) of the state-administered retirement systems***[~~the County Employees Retirement System~~], who has sixty (60) or more months of service ***in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System***, may purchase credit in the ***system in which the employee has the sixty (60) months of service credit***[~~County Employees Retirement System~~] for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20)[~~(a)~~] An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. ***Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.***

[~~(b) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), who has served or is currently serving in an office established pursuant to KRS 160.160, and who has at least fifteen (15) years of service, may obtain credit not to exceed two (2) years for the period of his service in the office established pursuant to KRS 160.160, if the service to be purchased does not overlap with service in a position covered by another state administered retirement system, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. The purchase of this service shall be made prior to December 31, 1996.~~

~~(c) Payment for purchase of service pursuant to paragraphs (a) and (b) of this subsection may be made in installments in lieu of lump-sum payment. The payment shall not be picked up, as described in KRS 61.560(4), and shall be deposited to the individual member's account.~~]

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States

Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or Section 23 of this Act may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

Section 10. KRS 61.555 is amended to read as follows:

(1) ***After August 1, 1998,*** any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he ***returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***~~[is reemployed]~~ within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) ***After August 1, 1998,*** any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who ***returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***~~[was or is reemployed]~~ within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4)

years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

Section 11. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment***, as defined in Section 6 of this Act,*** in a regular full-time position***, as defined in Section 6 of this Act or Section 21 of this Act***;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application ***based on the same claim of incapacity*** shall be accepted ***and considered for disability*** for any person who has previously applied for and been denied disability benefits unless ***it***[~~an application based on the same claim of incapacity~~] is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer ***as provided in 42 U.S.C. sec. 12111(9) and 29 C. F. R. Part 1630*** shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. ***For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.***

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.

Section 12. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to thirty (30) years. When the employee has accumulated total service of thirty (30) or more years, his total service shall be used in computing disability benefits. ***For employees hired on or after the effective date of this Act, the total service and added service for determining disability benefits shall not exceed twenty-seven (27) years.***

Section 13. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a member on a disability retirement allowance, ***or less frequently as determined by the board's medical examiner but not less than once every five (5) years,*** the system may require the person, prior to his normal retirement date, to undergo a financial and medical staff review and, if necessary, be required to submit current medical information. If he refuses to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.

Section 14. KRS 61.625 is amended to read as follows:

(1) ***A***~~[If a member's employment has been terminated or if the member is employed by a participating employer in an employment status as defined in KRS 61.510(21)(a) to (d) or 78.510(21)(a) to (d), that does not require the member to participate in the system, the]~~ member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the

employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received ***if:***

(a) The member's employment has been terminated and the member is not participating in the same retirement system;

(b) The member is employed in an employment status as defined in paragraphs (a) to (d) of subsection (21) of Section 6 of this Act that does not require the member to participate in the system; or

(c) The member has been laid off for ninety (90) days or more.

(2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(3)[~~(2)~~] Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 15. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require***, notwithstanding the provisions of KRS Chapters 45 and 45A***;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally-eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the commissioner of personnel resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; ***and***

(e)[~~ Expend funds for goods and services pursuant to the provisions of KRS Chapter 45A as they apply to state agencies, but if the board designates an emergency by letter to the secretary of the Finance and Administration Cabinet, the secretary shall within thirty (30) days of submission approve or reject a proposed personal service contract submitted to him by the board pursuant to KRS 45A.045. If the secretary rejects the proposed contract, he shall provide a detailed written statement of his reasons therefor. If the secretary fails or refuses to act within the thirty (30) day period, the proposed contract shall be deemed approved without further action pursuant to KRS 45A.045; and~~

~~(f)~~] Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure. ***Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.***

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 ***or Chapter 13B***.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system~~[, including investment-related expenditures,]~~ shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

Section 16. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the District Court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with the laws, administrative regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 17. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also ***file at the retirement office***[~~submit~~] a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630.

(b) The employer shall ***file at the retirement office***[~~submit~~] a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to ***file at the retirement office***[~~submit~~] additional medical information[~~ to the retirement office~~] or to appeal his denial for disability benefits by ***filing at the retirement office a request for***[~~requesting~~] a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may ***file at the retirement office a*** request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may ***file at the retirement office a*** request ***for*** an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 18. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

(3) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall forward the employer and employee contributions required under KRS 61.560 and 61.565 to the retirement office within twenty (20) days of the tenth day of the month following the period being reported. If the agency fails to forward all contributions within the twenty (20) days, interest at the actuarial rate adopted by the board compounded annually on the delinquent contributions, but not less than one hundred dollars ($100), shall be added to the amount due the system.

Section 19. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty (30) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does-not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System***, Legislators' Retirement Plan,*** or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan~~[or Legislators' Retirement Plan]~~, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system***.***~~[, but]~~ The final compensation shall be determined ***by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems***~~[as if all service were in one (1) system]~~.

Section 20. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid***:***

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll

deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems; or

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient.

(b) The board shall determine the amount of the monthly contribution from the Kentucky Retirement Systems insurance fund for a recipient to provide benefits equal to those provided to state employees, which may include cross-referencing with employed members or spouses participating in the same group insurance plan. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution. Where the recipient is retired from the State Police Retirement System or retired from a hazardous position as defined in KRS 61.592, the board shall determine the monthly contributions to be paid for a recipient with one (1) or more dependents.

(c) 1. The monthly contribution from the Kentucky Retirement Systems insurance fund as determined by the board shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement.

2. ***If the***[~~Should such~~] recipient ***has***[~~have~~] less than two hundred forty (240) months of service but[~~ have~~] at least one hundred eighty (180) months of service, seventy-five percent (75%) of ***the monthly contribution***[~~such premium~~] shall be paid from the insurance fund provided ***the***[~~such~~] recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method.

3. ***If the***[~~Should such~~] recipient ***has***[~~have~~] less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of ***the monthly contribution***[~~such premium~~] shall be paid from the insurance fund provided ***the***[~~such~~] recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method.

4. ***If the***[~~Should such~~] recipient ***has***[~~have~~] less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of ***the monthly contribution***[~~such premium~~] shall be paid from the insurance fund provided ***the***[~~such~~] recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method.

5. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty, as defined in KRS 16.505(19), shall have ***the monthly contribution***[~~his premium~~] paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit.

6. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(d)[~~(b)~~] For a member of the County Employees Retirement System, "months of service" shall include, in addition to service as described in paragraph ***(c)***[~~(a)~~] of this subsection, service for which benefits are eligible under KRS 21.345 to 21.510.

1. Upon request by a member, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in the Judicial Retirement System, and calculate the portion of the member's premium to be paid by the County Employees Retirement System, according to the criteria established in paragraph ***(c)***[~~(a)~~] of this subsection. The Judicial Retirement Fund annually shall pay to the County Employees Retirement System the percentage of the system's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in

the Judicial Retirement System divided by his total combined service. The amounts paid by the Judicial Retirement Fund and the County Employees Retirement System shall not be more than one hundred percent (100%) of the ***monthly contribution***[~~single premium amount~~] adopted by the respective boards of trustees or more than the maximum percentage payable under the program established under this section or KRS 21.427.

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under the Judicial Retirement Plan as described in KRS 21.427, and the election shall be irrevocable.

(4) ***(a)*** Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay ***a***[~~the same~~] percentage of the ***monthly contribution***[~~premium~~] for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary[~~, as the fund pays or paid for the member~~]. ***The percentage of the monthly contribution paid for the spouse and dependents shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(c) of this section.***

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

Section 21. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30***, which shall also be the plan year***;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary***, also referred to as probationary,*** positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;[~~ and~~]

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434***; and***

(31) "Participating" means an employee is currently earning service credit in the system as provided in Section 23 of this Act.

Section 22. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing~~] to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 23. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of days worked, the rate of pay, and the hours in a work day for each employee ***monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later then twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars ($1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars ($250) for each additional thirty (30) day period the information is reported late***.

1. If the employee works fewer than the number of contracted days, the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
2. If the employee works fewer than the number of contracted days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Department of Personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Section 24. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick-leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees.

(3) ***(a)*** Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member ***or employer*** pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), and (4) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated

which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the ***employee's final compensation***~~[annual salary of the final year of service]~~, if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

Section 25. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.

(3) (a) If the agency reporting official fails to forward all contributions within twenty (20) days of the tenth day of the month following the period being reported, interest at the ***actuarial*** rate ***adopted by the board***~~[of eight percent (8%) per year]~~ compounded annually on the delinquent contributions, but not less than one hundred dollars ($100), shall be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate ***adopted by the board***~~[of eight percent (8%) per year]~~ compounded annually, ***or penalties*** may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

The Committee Substitute to **HB 234** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was

paid at the highest average monthly rate divided by the number of months of service credit during the five (5) year period, multiplied by twelve (12); the five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of ***the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an act in line of duty shall mean an act occurring which was required in the performance of the principal duties of the position as approved by the board***[~~duty~~];

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS

61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;[~~ and~~]

(31) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests***;***

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year; and

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).

(2) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing to~~] another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 3. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer ***as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630*** shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment***, as defined in Section 1 of this Act,*** as a regular full-time officer or in a regular full-time hazardous position ***under KRS 61.592***;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application ***based on the same claim of incapacity*** shall be accepted ***and considered for disability*** for any person who has previously applied for and been denied disability benefits unless ***it***[~~an application based on the same claim of incapacity~~] is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally-appointed guardian, or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 4. KRS 16.596 is amended to read as follows:

Once each year following the retirement of a member on a disability retirement allowance, ***or less frequently as determined by the board's medical examiner but not less than once every five (5) years,*** the system may require the member, prior to his normal retirement date, to undergo a medical examination and financial review. If the member refuses to submit to the medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if he continues to refuse for one (1) year, all his rights to any further disability allowance shall cease.

Section 5. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;~~[and]~~

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699***; and***

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592.

Section 6. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by

virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour work days, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30***, which shall also be the plan year***;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;[~~ and~~]

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically-demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically-acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests***; and***

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 7. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on or after the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing to~~] another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems; and

(8) Employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 8. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) ***(a)*** Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS

Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers, may purchase service credit for previous years by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay the employer contributions plus interest and the employee shall pay the employee contributions plus interest. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) ***(a)*** An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 9. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the

service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) ***After***[~~Effective~~] August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14), (15), and (17) to ***(25)***[~~(19)~~] of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) ***After August 1, 1998,*** any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months service ***credit in the Kentucky Employees Retirement System or the County Employees Retirement System*** or, if younger, who has sixty (60) months service ***credit in the Kentucky Employees Retirement System or the County Employees Retirement System*** may purchase credit in the ***system in which the employee has the service credit***[~~Kentucky Employees Retirement System~~] for up to ten (10) years service in a regular full-time position that was credited to a state or local government administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) ***After August 1, 1998,*** any employee participating in ***one (1) of the state-administered retirement systems***[~~the County Employees Retirement System~~], who has sixty (60) or more months of service ***in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System***, may purchase credit in the ***system in which the employee has the sixty (60) months of service credit***[~~County Employees Retirement System~~] for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as

hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20)[~~(a)~~] An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. ***Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.***

[~~(b) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), who has served or is currently serving in an office established pursuant to KRS 160.160, and who has at least fifteen (15) years of service, may obtain credit not to exceed two (2) years for the period of his service in the office established pursuant to KRS 160.160, if the service to be purchased does not overlap with service in a position covered by another state-administered retirement system, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. The purchase of this service shall be made prior to December 31, 1996.~~

~~(c) Payment for purchase of service pursuant to paragraphs (a) and (b) of this subsection may be made in installments in lieu of lump sum payment. The payment shall not be picked up, as described in KRS 61.560(4), and shall be deposited to the individual member's account.~~]

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or Section 23 of this Act may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer

contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

Section 10. KRS 61.555 is amended to read as follows:

(1) ***After August 1, 1998,*** any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he ***returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***[~~is reemployed~~] within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) ***After August 1, 1998,*** any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who ***returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***[~~was or is reemployed~~] within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving

a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

Section 11. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment***, as defined in Section 6 of this Act,*** in a regular full-time position***, as defined in Section 6 of this Act or Section 21 of this Act***;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No disability application ***based on the same claim of incapacity*** shall be accepted ***and considered for disability*** for any person who has previously applied for and been denied disability benefits unless ***it***[~~an application based on the same claim of incapacity~~] is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer ***as provided in 42 U.S.C. sec. 12111(9) and 29 C. F. R. Part 1630*** shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. ***For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.***

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.

Section 12. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to thirty (30) years. When the employee has accumulated total service of thirty (30) or more years, his total service shall be used in computing disability benefits. ***For employees hired on or after the effective date of this Act, the total service and added service for determining disability benefits shall not exceed twenty-seven (27) years.***

Section 13. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a member on a disability retirement allowance, ***or less frequently as determined by the board's medical examiner but not less than once every five (5) years,*** the system may require the person, prior to his normal retirement date, to undergo a financial and medical staff review and, if necessary, be required to submit current medical information. If he refuses to submit to a medical examination, his retirement allowance shall be discontinued until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.

Section 14. KRS 61.625 is amended to read as follows:

(1) ***A***[~~If a member's employment has been terminated or if the member is employed by a participating employer in an employment status as defined in KRS 61.510(21)(a) to (d) or 78.510(21)(a) to (d), that does not require the member to participate in the system, the~~] member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received ***if:***

(a) The member's employment has been terminated and the member is not participating in the same retirement system;

(b) The member is employed in an employment status as defined in paragraphs (a) to (d) of subsection (21) of Section 6 of this Act that does not require the member to participate in the system; or

(c) The member has been laid off for ninety (90) days or more.

(2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(3)[~~(2)~~] Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 15. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth, one (1) of whom shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require***, notwithstanding the provisions of KRS Chapters 45 and 45A***;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate, not less than six (6) months before a term of office of a trustee is due to expire, at least three (3) constitutionally-eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the commissioner of personnel resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; ***and***

(e)[~~Expend funds for goods and services pursuant to the provisions of KRS Chapter 45A as they apply to state agencies, but if the board designates an emergency by letter to the secretary of the Finance and Administration Cabinet, the secretary shall within thirty (30) days of submission approve or reject a proposed personal service contract submitted to him by the board pursuant to KRS 45A.045. If the secretary rejects the proposed contract, he shall provide a detailed written statement of his reasons therefor. If the secretary fails or refuses to act within the thirty (30) day period, the proposed contract shall be deemed approved without further action pursuant to KRS 45A.045; and~~

~~(f)~~] Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation.

(10) All employees of the board shall serve during its will and pleasure. ***Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.***

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 ***or Chapter 13B***.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system[~~, including investment related expenditures,~~] shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

Section 16. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in

securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the District Court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with the laws, administrative regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 17. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also ***file at the retirement office***[~~submit~~] a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630.

(b) The employer shall ***file at the retirement office***[~~submit~~] a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to ***file at the retirement office***[~~submit~~] additional medical information[~~ to the retirement office~~] or to appeal his denial for disability benefits by ***filing at the retirement office a request for***[~~requesting~~] a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(3) Any person aggrieved by a final order or determination of the system may ***file at the retirement office a*** request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may ***file at the retirement office a*** request ***for*** an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 18. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

(3) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall forward the employer and employee contributions required under KRS 61.560 and 61.565 to the retirement office within twenty (20) days of the tenth day of the month following the period being reported. If the agency fails to forward all contributions within the twenty (20) days, interest at the actuarial rate adopted by the board compounded annually on the delinquent contributions, but not less than one hundred dollars ($100), shall be added to the amount due the system.

Section 19. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty (30) year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the

Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System***, Legislators' Retirement Plan,*** or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan[~~ or Legislators' Retirement Plan~~], is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system***.***[~~, but~~] The final compensation shall be determined ***by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems***[~~as if all service were in one (1) system~~].

Section 20. KRS 61.702 is amended to read as follows:

(1) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section. The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems, who are under age sixty-five (65), to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid***:***

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems; or

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance

over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient.

(b) The board shall determine the amount of the monthly contribution from the Kentucky Retirement Systems insurance fund for a recipient to provide benefits equal to those provided to state employees, which may include cross-referencing with employed members or spouses participating in the same group insurance plan. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution. Where the recipient is retired from the State Police Retirement System or retired from a hazardous position as defined in KRS 61.592, the board shall determine the monthly contributions to be paid for a recipient with one (1) or more dependents.

(c) 1. The monthly contribution from the Kentucky Retirement Systems insurance fund as determined by the board shall be paid in full from the insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement.

2. If the[~~Should such~~] recipient ***has***[~~have~~] less than two hundred forty (240) months of service but[~~ have~~] at least one hundred eighty (180) months of service, seventy-five percent (75%) of ***the monthly contribution***[~~such premium~~] shall be paid from the insurance fund provided ***the***[~~such~~] recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method.

3. If the[~~Should such~~] recipient ***has***[~~have~~] less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of ***the monthly contribution***[~~such premium~~] shall be paid from the insurance fund provided ***the***[~~such~~] recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method.

4. If the[~~Should such~~] recipient ***has***[~~have~~] less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of ***the monthly contribution***[~~such premium~~] shall be paid from the insurance fund provided ***the***[~~such~~] recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method.

5. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty, as defined in KRS 16.505(19), shall have ***the monthly contribution***[~~his premium~~] paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty, as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit.

6. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(d)[~~(b)~~] For a member ***electing insurance coverage through the Kentucky Retirement Systems***[~~of the County Employees Retirement System~~], "months of service" shall include, in addition to service as described in paragraph ***(c)***[~~(a)~~] of this subsection, service ***credit in one of the other state-administered retirement plans***[~~for which benefits are eligible under KRS 21.345 to 21.510~~].

1. ***Effective August 1, 1998***[~~Upon request by a member~~], the Kentucky Retirement Systems shall compute the member's combined service, including service credit in ***another state-administered retirement plan***[~~the Judicial Retirement System~~], and calculate the portion of the member's premium to be paid by the ***insurance fund***[~~County Employees Retirement System~~], according to the criteria established in paragraph ***(c)***[~~(a)~~] of this subsection. ***Each state-administered retirement plan***[~~The Judicial Retirement Fund~~] annually shall pay to the ***insurance fund***[~~County Employees Retirement System~~] the percentage of the system's cost of the retiree's ***monthly contribution for single coverage for*** hospital and medical ***insurance***[~~premium~~] which shall be equal to the percentage of the member's number of months of service in the ***other state-administered retirement plan***[~~Judicial Retirement System~~] divided by his total combined service. The amounts paid by the ***other state-administered retirement plans and the insurance fund***[~~Judicial Retirement Fund and the County Employees Retirement System~~] shall not be more than one hundred percent (100%) of the ***monthly contribution***[~~single premium amount~~] adopted by the respective boards of trustees[~~ or more than the maximum percentage payable under the program established under~~]

~~this section or KRS 21.427~~].

2. A member ***may not elect coverage for***[~~who elects~~] hospital and medical benefits under this subsection ***through more than one of the state-administered retirement plans***[~~shall lose any claim to insurance benefits under the Judicial Retirement Plan as described in KRS 21.427, and the election shall be irrevocable~~].

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) ***(a)*** Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay ***a***[~~the same~~] percentage of the ***monthly contribution***[~~premium~~] for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary[~~, as the fund pays or paid for the member~~]. ***The percentage of the monthly contribution paid for the spouse and dependents shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(c) of this section.***

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

Section 21. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for

which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer ***which are includable on the member's federal form W-2 wage and tax statement***, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30***, which shall also be the plan year***;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary***, also referred to as probationary,*** positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at

the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;[~~ and~~]

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434***; and***

(31) "Participating" means an employee is currently earning service credit in the system as provided in Section 23 of this Act.

Section 22. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously ***participating in***[~~contributing~~] to another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 23. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of days worked, the rate of pay, and the hours in a work day for each employee ***monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later then twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars ($1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars ($250) for each additional thirty (30) day period the information is reported late***.

1. If the employee works fewer than the number of contracted days, the employee shall receive service credit determined by dividing the actual number of contracted days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.
2. If the employee works fewer than the number of contracted days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.
3. The retirement system shall refund contributions and service credit for any period for which the employee is not given credit under this subsection.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Department of Personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

Section 24. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick-leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees.

(3) ***(a)*** Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member ***or employer*** pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), and (4) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be

based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the ***employee's final compensation***[~~annual salary of the final year of service~~], if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

Section 25. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.

(3) (a) If the agency reporting official fails to forward all contributions within twenty (20) days of the tenth day of the month following the period being reported, interest at the ***actuarial*** rate ***adopted by the board***[~~of eight percent (8%) per year~~] compounded annually on the delinquent contributions, but not less than one hundred dollars ($100), shall be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate ***adopted by the board***[~~of eight percent (8%) per year~~] compounded annually, ***or penalties*** may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

HB 245, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.195 is amended to read as follows:

(1) The commissioner of the Department of Vocational Rehabilitation shall prescribe administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to KRS 151B.180 to 151B.210 to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

(2) Except as provided in KRS 151B.190, the commissioner may prescribe administrative regulations to establish fees for services provided to individuals or entities, public or private.

(3) The commissioner is authorized to provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the department for the transportation of applicants or clients of the department. If the transportation is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence to such amounts as the commissioner designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any applicant or client or other person, or death or injury of any applicant or client or other person.

(4) The provisions of any other statute notwithstanding, the commissioner is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 2. KRS 163.470 is amended to read as follows:

(1) There is created within the Cabinet for Workforce Development the Department for the Blind.

(2) The commissioner shall be appointed by the Governor upon the recommendation of the secretary of the Cabinet for Workforce Development to whom he shall be directly responsible.

(3) The department shall be the state agency responsible for all rehabilitation services for the blind and the visually impaired and other services as deemed necessary. The department shall be the agency authorized to expend all state and federal

funds designated for rehabilitation services for the blind and visually impaired. The Office of the Secretary of the Cabinet for Workforce Development is authorized as the state agency to receive all state and federal funds and gifts and bequests for the benefit of rehabilitation services for the blind and visually impaired. The State Treasurer is designated as the custodian of all funds and shall make disbursements for rehabilitation purposes upon certification by the commissioner.

(4) (a) The Kentucky Department for the Blind Advisory Council is hereby created and established to accomplish the purposes and functions enumerated in Title I, Subtitle B Section 126 of the Rehabilitation Act Amendments of 1992. Members of the advisory council shall be appointed by the Governor from recommendations submitted by the Department for the Blind consistent with the federal mandate to include a majority of individuals who are blind or visually impaired representing specified organizations, service providers, and advocacy groups. The composition, qualifications, and terms of service of the advisory council shall conform to those prescribed by the federal law. There shall be statewide representation on the council.

(b) Each member of the Department for the Blind Advisory Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Kentucky Department for the Blind Advisory Council. The per diem and expenses shall be paid out of the federal funds appropriated under Title I part A of the Rehabilitation Act Amendments of 1992, Pub. L. 102-569.

(5) The department shall establish and implement policies and procedures for the carrying out of the program of services for the blind.

(6) At the close of each biennium, the department shall prepare a financial report and present it to the secretary of the Cabinet for Workforce Development and to the Governor. The biennial report shall be published. The biennial report shall also contain a precise review of the work of the department and contain necessary suggestions for improvement.

(7) The department shall coordinate its functions with other appropriate public and private agencies.

(8) The department shall perform all other duties as required of it by law.

(9) The commissioner shall hire personnel as necessary to carry out the work of the department and the provisions of KRS 163.450 to 163.470. Preference shall be given to hiring qualified blind persons. Hiring and promotional personnel practices shall not be discriminatory because of age, sex, race, disability, or national origin. Department employees shall receive compensation and travel expenses as allowed other employees of the Commonwealth.

(10) There shall be created under the authority of the department, to be directed by the commissioner, a Division of Client Services which shall provide intake and rehabilitation counseling services; distribute or sell technical educational and other aids to the blind; provide educational materials such as recorded texts, braille or large-type texts, or such other materials as may be deemed necessary for the education of the blind; research into the development of new technical aids for the blind, mobility training, work evaluation, personal adjustment, independent living, and other services as needed for blind adults, and services for the blind who have other disabilities; and promote employment of the blind in public and private sectors.

(11) There shall be established under the authority of the department to be directed by the commissioner, a Division of Business Enterprises. This division shall manage and supervise the Vending Facilities Program and license qualified blind persons as vendors. In connection therewith, the department shall be authorized to own or lease vending equipment for the operation of vending facilities in federal, state, private, and other buildings. The set-aside charges levied shall comply with the existing federal regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents shall be employed to locate and establish additional vending facilities. The Department for the Blind shall make such surveys as may be deemed necessary to determine the vending facility opportunities for blind vendors in state buildings or on other property owned, leased, or otherwise occupied by the state government and shall install vending facilities in suitable locations on such property for the use of the blind. All of the net income from vending machines which are on the same property as a vending facility shall be paid to the blind vendor of the vending facility. Whenever there exists a conflict of interest between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which shall protect the interest of both from unreasonable competition. The agreement shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the blind vendor shall be permitted to vend all items of merchandise customarily sold at similar vending facilities.

(12) There shall be established under authority of the department, to be directed by the commissioner, a Division of Industries for the Blind which shall provide industrial evaluation, training, and employment. Emphasis shall be on placement in public employment and long-term sheltered employment at industries for the blind. The Division of Industries for the Blind shall be abolished, effective July 1, 2000. The department, at all times, shall be authorized to provide industrial evaluation, training, and employment.

(13) The department shall provide staff services which shall include fiscal management, staff development and training, program development and evaluation, public information office, and other staff services as may be deemed necessary.

(14) The provisions of any other statute notwithstanding, the commissioner is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

HB 284, AN ACT relating to reorganization of the Department of Law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.010 is amended to read as follows:

(1) The Attorney General is the head of the Department of Law.

(2) The Department of Law shall include the following major organizational units:

(a) Criminal Appellate Division;

(b) Consumer Protection Division;

(c) Special Investigations Division;

(d) Special Prosecutions Division;

(e) Prosecutors Advisory Council Services Division;

(f) Medicaid Fraud and Abuse Control Division;

(g) Civil and Environmental Law Division;

(h) Victims Advocacy Division;

(i) Child Support Enforcement Commission;

(j) Administrative Hearings Division;

(k) Office of Rate Intervention; and

(l) Administrative Services Division.

Section 2. The General Assembly confirms Executive Order of the Attorney General 96-1, signed June 14, 1996 and effective August 16, 1996, to the extent it is not otherwise confirmed by Section 1 of this Act. The confirmation includes, without being limited to:

(1) The confirmation and modification of the following prior reorganization orders relating to the organizational structure of the Department of Law: 79-1180, 80-415, 81-68, 81-674, 82-218, 84-01, 84-001, 84-492, 86-01, 86-001, 88-1, 88-2, 91-1, 91-2, and 94-1; and

(2) Creation of the Office of Rate Intervention.

HB 287, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.015 is amended to read as follows:

(1) Except as provided by subsection ***(6)***[~~(5)~~] of this section, prior to the promulgation of an administrative regulation, an administrative body shall***, for each administrative regulation it intends to promulgate***:

(a) ***File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of***[~~Publish~~] a notice of its intent to promulgate an administrative regulation ***for publication*** in the administrative register; and

(b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.

(2) ***Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.***

(3) The notice of intent[~~ published in the Administrative Register~~] shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The ***number and the*** specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten

(10) ***calendar*** days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons***, or one (1) person representing an administrative body or association,*** agree to be present at the public hearing:

1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;

2. At which it will accept oral and written comments from any interested person;

(d) The ***name,*** address***, telephone number, and facsimile number*** to ***whom***[~~which~~] the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;

2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;

3. A statement ***setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b)***[~~of the need for, and the function of, the administrative regulation~~];

4. A statement of the benefits expected from the administrative regulation; and

5. How the administrative regulation will be implemented.

(4)[~~(3)~~] (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;

2. On the date the notice is published in the Administrative Register.

(5)[~~(4)~~] (a) An administrative body shall file the ***original and five (5) copies of the*** notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) ***A notice of intent shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.***[~~The Commission may prescribe the format for the notice of intent.~~]

(6)[~~(5)~~] (a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

(7) If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 2. KRS 13A.017 is amended to read as follows:

(1) ***If an administrative body cancels a notice-of-intent public hearing because it has not received a request for a notice-of-intent public hearing pursuant to subsection (3) of Section 1 of this Act, the administrative body shall immediately notify the regulations compiler in writing and by telephone that it has canceled the notice-of-intent public hearing.***

(2) Following a public hearing on a proposed administrative regulation held pursuant to the provisions of KRS 13A.015, the administrative body shall give consideration to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing.

(3)[~~(2)~~] The administrative body shall file with the Commission within forty-five (45) days following the date the public hearing was scheduled, a statement:

(a) Identifying the persons who submitted written comments, or attended the public hearing; and

(b) Containing a summary of the:

1. Comments received or made at the public hearing; and
2. Its response to the comments.

(4)[~~(3)~~] The administrative body shall provide a copy of the summary to any person who attended the public hearing and requested that a copy of the summary be provided.

(5)[~~(4)~~] The regulations compiler shall transmit a copy of the summary to a legislator upon request.

(6)[~~(5)~~] If the administrative body promulgates an administrative regulation that was the subject of a public hearing required under the provisions of this section and KRS 13A.015, the regulations compiler shall transmit a copy of the summary to a legislator upon request.

(7)[~~(6)~~] The administrative body shall provide a copy of the summary to persons who attended the public hearing and requested that a copy of the summary be provided.

(8)[~~(7)~~] If an administrative body determines that it will file an administrative regulation, it shall file the administrative regulation for which a notice of intent was filed within ***ninety (90) calendar***[~~one hundred eighty (180)~~] days of the date on which the notice-of-intent public hearing was scheduled. ***Except as provided by subsection (10) of this section, if an administrative regulation is not filed within ninety (90) calendar days of the date on which the notice-of-intent public hearing was scheduled, the notice of intent shall expire.***

(9)[~~(8)~~] If the administrative body determines that it will not file an ordinary administrative regulation for which a notice of intent was filed, it shall notify the regulations compiler of its determination, in writing, within ***ninety (90) calendar***[~~one hundred eighty (180)~~] days of the date on which the notice-of-intent public hearing was scheduled.

(10) (a) A notice of intent filed prior to July 15, 1996, for which an administrative regulation has not been filed, shall expire on the effective date of this Act.

(b) Except as provided by paragraph (a) of this subsection, a notice of intent filed prior to the effective date of this Act, for which an administrative regulation has not been filed, shall expire one hundred eighty (180) calendar days following the date on which the notice-of-intent public hearing was scheduled.

Section 3. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the ***drafting, format, or filing requirements established by the*** provisions of KRS ***Chapter 13A***[~~13A.222 and 13A.224~~], and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing; and

(11) Perform other duties required by the Commission or by a subcommittee.

Section 4. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file ***with the regulations compiler:***

(a) The original and five (5) copies of an administrative regulation***; and***

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by[~~with~~] the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3)[~~(2)~~] An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection ***(4)***[~~(3)~~] of this section.

(4)[~~(3)~~] The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches and shall be double-spaced. ***The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins.*** The administrative regulation shall be typed in ***a***[~~Times Roman~~] twelve (12) point[~~ or an equivalent~~] font approved by the regulations compiler. The lines on each page shall be numbered, with twenty-three (23) lines to a page. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. ***Page numbers shall be centered in the bottom margin of each page.*** Copies of the administrative regulation may be mechanically reproduced;

(b) [~~A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner shall be left blank for ~~]The regulations ***compiler shall place a***[~~compiler's~~] stamp indicating the date and time of receipt of the administrative regulation ***in the two (2) inch margin on the first page***;

(c) The cabinet, department, and division of the administrative body shall be listed on separate ***double-spaced***[~~single-spaced~~] lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed ***on the next double-spaced line*** by "(Amendment)" or "(Amended After Hearing)," whichever is applicable. If an administrative regulation is new, the notation shall read "(New Administrative Regulation)";

(d) The notation shall be followed by the number and title of the administrative regulation ***on the next double-spaced***[~~. The~~] line[~~ on which the number and title appear shall begin two (2) lines below the notation~~]. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) ***On the next double-spaced line***[~~Two (2) lines~~] following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

(5)[~~(4)~~] The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(6)[~~(5)~~] After the complete text of an administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270.

(e) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;
2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) to (c) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 5. KRS 13A.2251 is amended to read as follows:

(1) An administrative ***body shall incorporate material by reference in the last section of an administrative*** regulation***. This section***[~~incorporating material by reference~~] shall include:

(a) The title and edition of the material incorporated by reference placed in quotation marks;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.

[~~The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.~~]

(2) ***The section incorporating material by reference shall be titled "Incorporation by Reference".***

(a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."

(b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."

(c) The second subsection of the section incorporating material by reference shall include the following statement: "This material may be inspected, copied, or obtained at (name of agency, full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."

(3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(4)[~~(3)~~] (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

(b) Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type, on the front binder cover and on the first page of the material incorporated by reference, the number of the administrative regulation to which material incorporated by reference pertains, the date on which it is filed, and the citation of each item that is included in the binder.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder. The numbers of the administrative regulations in which the material is incorporated by reference shall be stamped or typed on the:

1. Front binder cover; and
2. First page of the material incorporated by reference.

Section 6. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date, the administrative body shall give consideration to all written and oral comments received by adjournment of the scheduled public hearing, ***or by the close of business on the scheduled public hearing date if the public hearing was not held***[~~whether received at the hearing or otherwise, regarding the administrative regulation~~].

(2) The administrative body shall then file with the commission on or before 12 noon, eastern time, on the fifteenth day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) (a) Except as provided by paragraph (b) of this subsection, if the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (c) of this subsection to the regulations compiler by noon on the fifteenth day following the hearing.

(b) If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection.

(c) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing;

(h) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as

required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

(b) If the statement of consideration is not forwarded to the regulations compiler at least ***ten (10)***[~~five (5)~~] working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 7. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:

1. Is titled "Repeal of (state number of administrative regulation to be repealed)"; and

2. Contains the reasons for repeal in the "NECESSITY AND FUNCTION" paragraph.

(b) On the effective date of an administrative regulation that repeals an administrative regulation, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.

(4) An ordinary administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. ***An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating agency at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to Section 8 of this Act.*** If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

Section 8. KRS 13A.330 is amended to read as follows:

(1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:

1. The administrative regulation is on the agenda of the subcommittee meeting;

2. A quorum of the subcommittee is present; and

3. The subcommittee:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;

2. Be withdrawn and amended to conform to the finding of deficiency; or

3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) ***If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.***

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5)[~~(4)~~] An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:

(a) The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:

1. Reviewed the administrative regulation; or

2. Failed to meet within thirty (30) days of such assignment; and

(b) The regulations compiler has received the Governor's determination pursuant to this section***; or***

(c) The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 9. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015***(6)***[~~(5)~~], means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 10. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:

1. Considered at the public hearing; or

2. Raised pursuant to a written comment received by the administrative body pursuant to KRS 13A.280(1); or

3. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:

1. Relate only to the format and drafting requirements of KRS 13A.220***(5)***[~~(4)~~] and 13A.222(4)(b), (c), (i), (j), and (k); and

2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.

(e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

(a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.

(b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:

1. Identify the administrative body;

2. State the number and title of the administrative regulation;

3. Be dated;

4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and

5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.

(c) On separate lines, the amendment shall be identified by the number of the:

1. Page;

2. Section, subsection, paragraph, subparagraph, as appropriate; and

3. Line.

(d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.

2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.

3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.

(3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the subcommittee meeting at which the amendment will be considered.

Section 11. KRS 13A.2264 is amended to read as follows:

(1) A federal regulation shall not be incorporated by reference or adopted without change if it:

(a) Requires an administrative body to establish specific or minimum procedures, standards, conditions, restrictions, forms or fees; or

(b) Permits the administrative body to impose procedures, standards, conditions, restrictions, forms or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation.

(2) The administrative body shall promulgate an administrative regulation complying with the federal requirements.

(3) The federal regulation shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation promulgated by the administrative body.

(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in KRS 13A.2251***(4)***[~~(3)~~].

(5) If the administrative body imposes procedures, standards, conditions, restrictions, forms, or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation, it shall attach a summary of its action.

Section 12. KRS 13A.2267 is amended to read as follows:

(1) A federal regulation shall not be incorporated by reference if it:

(a) Imposes specific procedures, standards, conditions, restrictions, forms, or fees on regulated entities;

(b) Does not require or permit the administrative body to alter the specified procedures, standards, conditions, restrictions, forms, or fees, or to select among alternatives; and

(c) Requires the administrative body to implement or to enforce such procedures, standards, conditions, restrictions, forms, or fees.

(2) The federal regulation shall be adopted without change and shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation.

(3) In a separate section, an administrative regulation shall include a citation of the federal regulation, the effective date of the federal regulation and a statement that the subject matter of the administrative regulation is governed by that federal regulation.

(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in KRS 13A.2251***(4)***[~~(3)~~].

(5) The administrative body shall attach to the administrative regulation a summary of the federal regulation that is adopted without change.

(6) If the federal regulation is amended, the citation of the effective date of the federal regulation shall be amended. The administrative body shall attach to the administrative regulation a summary of the federal regulation, as amended. The administrative body shall submit a copy of the federal regulation, as amended, with the administrative regulation in a binder as provided in KRS 13A.2251***(4)***[~~(3)~~].

The Committee Substitute to **HB 287** is as follows:

AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.015 is amended to read as follows:

(1) Except as provided by subsection ***(6)***[~~(5)~~] of this section, prior to the promulgation of an administrative regulation, an administrative body shall***, for each administrative regulation it intends to promulgate***:

(a) ***File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of***[~~Publish~~] a notice of its intent to promulgate an administrative regulation ***for publication*** in the administrative register; and

(b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.

(2) ***Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.***

(3) The notice of intent[~~ published in the Administrative Register~~] shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The ***number and the*** specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) ***calendar*** days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons***, or one (1) person representing an administrative body or association,*** agree to be present at the public hearing:

1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;

2. At which it will accept oral and written comments from any interested person;

(d) The ***name,*** address***, telephone number, and facsimile number*** to ***whom***[~~which~~] the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;

2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;

3. A statement ***setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b)***[~~of the need for, and the function of, the administrative regulation~~];

4. A statement of the benefits expected from the administrative regulation; and

5. How the administrative regulation will be implemented.

(4)[~~(3)~~] (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;

2. On the date the notice is published in the Administrative Register.

(5)[~~(4)~~] (a) An administrative body shall file the ***original and five (5) copies of the*** notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) ***A notice of intent shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.***[~~The Commission may prescribe the format for the notice of intent.~~]

(6)[~~(5)~~] (a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

(7) If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 2. KRS 13A.017 is amended to read as follows:

(1) ***If an administrative body cancels a notice-of-intent public hearing because it has not received a request for a notice-of-intent public hearing pursuant to subsection (3) of Section 1 of this Act, the administrative body shall immediately notify the regulations compiler in writing and by telephone that it has canceled the notice-of-intent public hearing.***

(2) Following a public hearing on a proposed administrative regulation held pursuant to the provisions of KRS 13A.015, the administrative body shall give consideration to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing.

(3)[~~(2)~~] The administrative body shall file with the Commission within forty-five (45) days following the date the public hearing was scheduled, a statement:

(a) Identifying the persons who submitted written comments, or attended the public hearing; and

(b) Containing a summary of the:

1. Comments received or made at the public hearing; and

2. Its response to the comments.

(4)[~~(3)~~] The administrative body shall provide a copy of the summary to any person who attended the public hearing and requested that a copy of the summary be provided.

(5)[~~(4)~~] The regulations compiler shall transmit a copy of the summary to a legislator upon request.

(6)[~~(5)~~] If the administrative body promulgates an administrative regulation that was the subject of a public hearing required under the provisions of this section and KRS 13A.015, the regulations compiler shall transmit a copy of the summary to a legislator upon request.

(7)[~~(6)~~] The administrative body shall provide a copy of the summary to persons who attended the public hearing and requested that a copy of the summary be provided.

(8)[~~(7)~~] If an administrative body determines that it will file an administrative regulation, it shall file the administrative regulation for which a notice of intent was filed within ***one hundred twenty (120) calendar***[~~one hundred eighty (180)~~] days of the date on which the notice-of-intent public hearing was scheduled. ***Except as provided by subsection (10) of this section, if an administrative regulation is not filed within one hundred twenty (120) calendar days of the date on which the notice-of-intent public hearing was scheduled, the notice of intent shall expire.***

(9)[~~(8)~~] If the administrative body determines that it will not file an ordinary administrative regulation for which a notice of intent was filed, it shall notify the regulations compiler of its determination, in writing, within ***one hundred twenty (120) calendar***[~~one hundred eighty (180)~~] days of the date on which the notice-of-intent public hearing was scheduled.

(10) (a) A notice of intent filed prior to July 15, 1996, for which an administrative regulation has not been filed, shall expire on the effective date of this Act.

(b) Except as provided by paragraph (a) of this subsection, a notice of intent filed prior to the effective date of this Act, for which an administrative regulation has not been filed, shall expire one hundred eighty (180) calendar days following the date on which the notice-of-intent public hearing was scheduled.

Section 3. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the ***drafting, format, or filing requirements established by the*** provisions of KRS ***Chapter 13A***[~~13A.222 and 13A.224~~], and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing; and

(11) Perform other duties required by the Commission or by a subcommittee.

Section 4. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file ***with the regulations compiler:***

(a) The original and five (5) copies of an administrative regulation***; and***

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by[~~with~~] the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3)[~~(2)~~] An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection ***(4)***[~~(3)~~] of this section.

(4)[~~(3)~~] The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches and shall be double-spaced. ***The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins.*** The administrative regulation shall be typed in ***a***[~~Times Roman~~] twelve (12) point[~~ or an equivalent~~] font approved by the regulations compiler. The lines on each page shall be numbered, with twenty-three (23) lines to a page. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. ***Page numbers shall be centered in the bottom margin of each page.*** Copies of the administrative regulation may be mechanically reproduced;

(b) [~~A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner shall be left blank for~~]The regulations ***compiler shall place a***[~~compiler's~~] stamp indicating the date and time of receipt of the administrative regulation ***in the two (2) inch margin on the first page***;

(c) The cabinet, department, and division of the administrative body shall be listed on separate ***double-spaced***[~~single spaced~~] lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed ***on the next double-spaced line*** by "(Amendment)" or "(Amended After Hearing)," whichever is applicable. If an administrative regulation is new, the notation shall read "(New Administrative Regulation)";

(d) The notation shall be followed by the number and title of the administrative regulation ***on the next double-spaced***[~~. The~~] line[~~ on which the number and title appear shall begin two (2) lines below the notation~~]. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) ***On the next double-spaced line***[~~Two (2) lines~~] following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

(5)[~~(4)~~] The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(6)[~~(5)~~] After the complete text of an administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred.

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270.

(e) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) to (c) of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 5. KRS 13A.2251 is amended to read as follows:

(1) An administrative ***body shall incorporate material by reference in the last section of an administrative*** regulation***. This section***[~~incorporating material by reference~~] shall include:

(a) The title and edition of the material incorporated by reference placed in quotation marks;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.

[~~The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.~~]

(2) ***The section incorporating material by reference shall be titled "Incorporation by Reference".***

(a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."

(b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."

(c) The second subsection of the section incorporating material by reference shall include the following statement: "This material may be inspected, copied, or obtained at (name of agency, full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."

(3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(4)[~~(3)~~] (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

(b) Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type, on the front binder cover and on the first page of the material incorporated by reference, the number of the administrative regulation to which material incorporated by reference pertains, the date on which it is filed, and the citation of each item that is included in the binder.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder. The numbers of the administrative regulations in which the material is incorporated by reference shall be stamped or typed on the:

1. Front binder cover; and

2. First page of the material incorporated by reference.

Section 6. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date, the administrative body shall give consideration to all written and oral comments received by adjournment of the scheduled public hearing, ***or by the close of business on the scheduled public hearing date if the public hearing was not held***[~~whether received at the hearing or otherwise, regarding the administrative regulation~~].

(2) The administrative body shall then file with the commission on or before 12 noon, eastern time, on the fifteenth day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) (a) Except as provided by paragraph (b) of this subsection, if the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (c) of this subsection to the regulations compiler by noon on the fifteenth day following the hearing.

(b) If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection.

(c) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing;

(h) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

(b) If the statement of consideration is not forwarded to the regulations compiler at least ***ten (10)***[~~five (5)~~] working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 7. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:

1. Is titled "Repeal of (state number of administrative regulation to be repealed)"; and

2. Contains the reasons for repeal in the "NECESSITY AND FUNCTION" paragraph.

(b) On the effective date of an administrative regulation that repeals an administrative regulation, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.

(4) An ordinary administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. ***An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating agency at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to Section 8 of this Act.*** If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

Section 8. KRS 13A.330 is amended to read as follows:

(1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:

1. The administrative regulation is on the agenda of the subcommittee meeting;

2. A quorum of the subcommittee is present; and

3. The subcommittee:
   a. Considers the administrative regulation; or
   b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;
2. Be withdrawn and amended to conform to the finding of deficiency; or
3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) ***If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.***

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5)[~~(4)~~] An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:

(a) The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:

1. Reviewed the administrative regulation; or
2. Failed to meet within thirty (30) days of such assignment; and

(b) The regulations compiler has received the Governor's determination pursuant to this section***; or***

(c) The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 9. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

- (a) Commercial enterprises;
- (b) Retail businesses;
- (c) Service businesses;
- (d) Industry;
- (e) Consumers of a product or service; or
- (f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation," except as provided by KRS 13A.015***(6)***~~[(5)]~~, means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 10. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:

1. Considered at the public hearing; or
2. Raised pursuant to a written comment received by the administrative body pursuant to KRS 13A.280(1); or
3. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:

1. Relate only to the format and drafting requirements of KRS 13A.220***(5)***~~[(4)]~~ and 13A.222(4)(b), (c), (i), (j), and (k); and
2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.

(e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:

(a) Amendments offered by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body.

(b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. The letter shall:

1. Identify the administrative body;

2. State the number and title of the administrative regulation;

3. Be dated;

4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee; and

5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.

(c) On separate lines, the amendment shall be identified by the number of the:

1. Page;

2. Section, subsection, paragraph, subparagraph, as appropriate; and

3. Line.

(d) 1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.

2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.

3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.

(3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the subcommittee meeting at which the amendment will be considered.

Section 11. KRS 13A.2264 is amended to read as follows:

(1) A federal regulation shall not be incorporated by reference or adopted without change if it:

(a) Requires an administrative body to establish specific or minimum procedures, standards, conditions, restrictions, forms or fees; or

(b) Permits the administrative body to impose procedures, standards, conditions, restrictions, forms or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation.

(2) The administrative body shall promulgate an administrative regulation complying with the federal requirements.

(3) The federal regulation shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation promulgated by the administrative body.

(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in KRS 13A.2251***(4)***[~~(3)~~].

(5) If the administrative body imposes procedures, standards, conditions, restrictions, forms, or fees that are stricter than, in addition to, or alternatives to those required by the federal regulation, it shall attach a summary of its action.

Section 12. KRS 13A.2267 is amended to read as follows:

(1) A federal regulation shall not be incorporated by reference if it:

(a) Imposes specific procedures, standards, conditions, restrictions, forms, or fees on regulated entities;

(b) Does not require or permit the administrative body to alter the specified procedures, standards, conditions, restrictions, forms, or fees, or to select among alternatives; and

(c) Requires the administrative body to implement or to enforce such procedures, standards, conditions, restrictions, forms, or fees.

(2) The federal regulation shall be adopted without change and shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" sections of the administrative regulation.

(3) In a separate section, an administrative regulation shall include a citation of the federal regulation, the effective date of the federal regulation and a statement that the subject matter of the administrative regulation is governed by that federal regulation.

(4) The administrative body shall submit a copy of the federal regulation with the administrative regulation in a binder as provided in KRS 13A.2251***(4)***[~~(3)~~].

(5) The administrative body shall attach to the administrative regulation a summary of the federal regulation that is adopted without change.

(6) If the federal regulation is amended, the citation of the effective date of the federal regulation shall be amended. The administrative body shall attach to the administrative regulation a summary of the federal regulation, as amended. The administrative body shall submit a copy of the federal regulation, as amended, with the administrative regulation in a binder as provided in KRS 13A.2251***(4)***[~~(3)~~].

HB 304, AN ACT relating to gender equity on state boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a member of the minority group even if the list of nominees for a vacancy does not include a member of the minority group.

(4) ***In making initial appointments to administrative boards and commissions, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.***

(5) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(6)[~~(5)~~] When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

HB 382, AN ACT relating to private activity bond allocation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 103.286 is amended to read as follows:

(1) The Kentucky Private Activity Bond Allocation Committee is established. The purpose of the committee shall be to ensure compliance by the Commonwealth, its political subdivisions, and other authorized issuers within the Commonwealth of Kentucky, of private activity bonds, as defined in the Internal Revenue Code of the United States, with the state ceiling on the issuance of the bonds imposed by the Tax Reform Act of 1986, 26 U.S.C. sec. 146. The committee shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. The committee shall be composed of the secretary of the Finance and Administration Cabinet, who shall be chairman of the committee; the secretary of the Cabinet for Economic Development; the state budget director; the state controller, Finance and Administration Cabinet; and the secretary of the Governor's Cabinet, or their respective designees.

(2) The committee shall attempt to allocate the state ceiling of Kentucky in order to best effectuate the issuance of private activity bonds, foster economic development within the Commonwealth, and promote the general welfare of its citizens and the public purposes of the Commonwealth.

(a) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the first ***fifty***[~~seventy five~~] percent ***(50%)***[~~(75%)~~] of the term shall be designated as a period in which the committee shall provide that no less than sixty percent (60%) of the private activity cap be reserved for ***state***[~~local~~] bond issuance authorities.

(b) For each calendar year, during the period in which the issuance of private activity bonds is authorized by the federal government, the last ***fifty***[~~twenty five~~] percent ***(50%)***[~~(25%)~~] of the term shall be designated by the committee as the period in which the remaining unallocated cap shall revert to a single pool to be allocated ***in accordance with subsection (3) of this section***[~~on a first come, first serve basis to state and local governments~~].

(3) The secretary of the Finance and Administration Cabinet shall promulgate regulations in accordance with KRS Chapter 13A, to provide for the allocation of the state ceiling on private activity bonds among all issuers of the bonds within the Commonwealth of Kentucky.

(4) No bonds governed by this section shall be issued that are not in compliance with the state ceiling, subsections (2)(a) and (b) of this section, or with the allocation, application, or review procedures established by the secretary of the Finance and Administration Cabinet.

Section 2. Whereas using the proceeds from the issuance of private activity bonds is the primary and most effective method of financing low-interest rate mortgages for first-time, low-income homebuyers and of providing student loans for those persons seeking postsecondary educational opportunities; and whereas, the demand for low-interest rate mortgages and postsecondary educational loans will result in the depletion of the available funds before a new allocation period for private activity bonds begins, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Natural Resources and Environment reported **HB 4,** with Committee Substitute attached thereto, and **HB 171**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to water pollution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

(a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters; and

(b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Cabinet" means the Tourism Cabinet;

(8) "Department" means the Department of Fish and Wildlife Resources;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means county clerk;

(11) "Division of Water Patrol" means the Division of Water Patrol, Department of Fish and Wildlife Resources within the Tourism Cabinet;

(12) "Title" means the certificate of title;[~~ and~~]

(13) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources***; and***

(14) "Marine sanitation device" means equipment, identified by the U.S. Coast Guard as meeting the standards of the U.S. Environmental Protection Agency, to eliminate the discharge of untreated sewage from vessels into the waters of the United States, or approved by the Natural Resources and Environmental Protection Cabinet, and designed or modified to prevent the discharge of sewage to the waters of the state from a motorboat with marine toilet facilities.

Section 2. KRS 235.410 is amended to read as follows:

As used in KRS 235.410 to ***235.470***[~~235.480~~], unless the context clearly indicates otherwise, the following words shall have the following meanings:

(1) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto;

(2) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(3) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever;

(4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, vessels, or other places, together with such industrial wastes, underground, surface, storm or other water, as may be present;

(5) "Industrial wastes" means liquid, or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource;

(6) "Other wastes" means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage and all other foreign substances not included within the above definitions of industrial wastes and sewage which may cause or contribute to the pollution of any waters of the Commonwealth[~~;~~

~~(7) "Cabinet" means the Natural Resources and Environmental Protection Cabinet~~].

Section 3. KRS 235.420 is amended to read as follows:

No person shall discharge or permit the discharge of sewage, industrial wastes or other wastes to the waters of the Commonwealth from any vessel[~~ except as specifically authorized by the cabinet~~].

Section 4. KRS 235.430 is amended to read as follows:

No person shall dispose of sewage accumulated in a holding tank***, a marine sanitation device,*** or other similar container on a vessel in ***a***[~~such~~] manner that the sewage reaches or may reach the waters of the Commonwealth[~~ except through a disposal system or treatment works approved by the cabinet~~].

Section 5. KRS 235.440 is amended to read as follows:

No motorboat equipped with marine toilet facilities shall be ***kept***[~~operated~~] on the waters of the Commonwealth unless ***the***[~~such~~] motorboat is equipped with a ***marine sanitation device***[~~water pollution control device of one (1) of the following types:~~

~~(1) Holding tanks. Holding tanks approved for use as water pollution control devices shall meet the following criteria:~~

~~(a) Be so constructed and installed as to provide for discharge of its contents only by pumping and to eliminate discharges by gravity flow;~~

~~(b) Be constructed of materials capable of withstanding the corrosive effects of sewage and odor inhibitors;~~

~~(c) Be vented so as to prevent the escape of gases and odors to motorboat interiors.~~

~~(2) Incinerators. Incinerators approved for use as water pollution control devices shall meet the following criteria:~~

~~(a) Be so designed and constructed as to reduce sewage completely to an inert ash and provide a satisfactory means of ash removal;~~

~~(b) Be vented so as to prevent the escape of gases and odors to motorboat interiors and otherwise minimize the presence of objectionable conditions. Forced air ventilation must be provided for use at all times during the incineration operating cycle;~~

~~(c) Provide safeguards to minimize the dangers of shock or explosion from operation of the unit.~~

~~(3) Devices with effluent discharges. Types of water pollution control devices providing for discharges of treated sewage to the waters of the Commonwealth shall be approved or disapproved on an individual basis by the cabinet. In approving or disapproving such types of devices, the cabinet shall consider whether the quality of performance of the type of device has been certified by the National Sanitation Foundation or a comparable national testing agency approved by the cabinet as meeting its criteria, and the cabinet shall consider such other factors as it deems appropriate to prevent and abate water pollution. All water pollution control devices approved for use on motorboats with marine toilet facilities shall be maintained in satisfactory working condition at all times that the motorboat is in operation~~].

Section 6. KRS 235.070 is amended to read as follows:

(1) Every person seeking a title and registration or renewal registration for operation of a motorboat shall apply to the county clerk of the county as provided in KRS 235.050 and make application on a form furnished by the Transportation Cabinet. The application shall contain the full name and signature, Social Security number or federal tax identification number, citizenship of applicant, date of birth, sex, present resident address, situs for ad valorem tax assessment, the make of the boat, hull identification number (HIN), if any, length, beam, model, and horsepower of motor, maximum capacity, type of

hull material, intended use of the boat, and whether the fuel is gasoline, diesel, or other. The application shall state whether the motorboat is equipped with ***marine*** toilet facilities~~[and shall describe the number and type of the facilities and shall state whether the storage container or treatment or disposal system for those facilities is a type approved by regulations promulgated pursuant to this chapter]~~. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, or refused, and if so, the date of and reason for cancellation, suspension, revocation, or refusal, and such other information as may be required.

(2) Every applicant shall submit the motorboat title or registration with the application as required below:

(a) If the motorboat is titled in Kentucky, the applicant shall submit the title with the application for title and registration;

(b) If the motorboat is registered in Kentucky but has not been titled in Kentucky, the applicant shall submit the certificate of registration with the application for title and registration;

(c) If the applicant is applying for a registration renewal, he shall submit the certificate of registration;

(d) If the motorboat is titled in another jurisdiction, the applicant shall submit the title with the application for title and registration;

(e) If the motorboat is registered in another jurisdiction, but not titled in any jurisdiction, the applicant shall submit the certificate of registration with the application for title and registration; and

(f) Motorboats or other vessels registered and licensed under the jurisdiction of the United States Coast Guard and holding a valid annual license shall be exempt from the provisions of this section.

(3) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(4) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a current certificate of registration or renewal thereof.

(5) ***Before a certificate of registration or renewal of registration for the operation of a motorboat with marine toilet facilities may be issued, the applicant shall submit documentation that the marine sanitation device has passed inspection as required by Section 7 of this Act. Upon receipt of the documentation the clerk shall issue, along with the current certificate of registration or renewal of registration, a decal that shows that the marine sanitation device has passed inspection in the current year of registration. The requirement of this subsection shall become effective July 15, 2000***~~[No certificate of registration or renewal thereof for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to this chapter]~~.

SECTION 7. A NEW SECTION OF KRS 235.410 TO 235.470 IS CREATED TO READ AS FOLLOWS:

(1) The Natural Resources and Environmental Protection Cabinet shall, once every two (2) years, inspect motorboats with marine toilet facilities. The inspection shall determine that the marine sanitation device for the motorboat prevents the discharge of sewage into the waters of the state.

(2) If the marine sanitation device passes the inspection, the Natural Resources and Environmental Protection Cabinet shall issue to the owner of the motorboat documentation stating that the documentation is good for two (2) years from the date of issuance and that the marine sanitation device passed the inspection.

SECTION 8. A NEW SECTION OF KRS 235.410 TO 235.470 IS CREATED TO READ AS FOLLOWS:

(1) Before the owner of a motorboat with marine toilet facilities that has not previously been registered in the state may receive a title and registration for the motorboat, the owner shall request an inspection of the marine sanitation device by the Natural Resources and Environmental Protection Cabinet.

(2) If a motorboat with marine toilet facilities has been previously registered in the state and issued documentation that is still valid showing the marine sanitation device passed an inspection under Section 7 of this Act, that documentation shall satisfy the requirement of Section 6(5) of this Act when a new title and registration for the motorboat is applied for.

Section 9. KRS 235.066 is amended to read as follows:

At least thirty (30) days prior to the expiration of registration of any motorboat previously registered in the Commonwealth as provided by KRS 235.070, the owner of the motorboat shall be notified by mail on the same notice required by KRS 134.805(5) of the date of expiration. ***At the same time the notice is sent to an owner of a motorboat with a marine toilet facility, notice shall also be sent to the Natural Resources and Environmental Protection Cabinet.*** In addition, the Transportation Cabinet shall provide appropriate forms and information to permit renewal of motorboat registration to be completed by mail. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Nonreceipt of the notice herein shall not constitute a defense to any registration related offense.

Section 10. KRS 235.200 is amended to read as follows:

(1) Every vessel shall have aboard:

(a) Personal floatation devices of the type and quantity as prescribed by the U.S. Coast Guard;

(b) When in operation during hours of darkness, or during times of poor visibility, such lights as prescribed by regulations of the Division of Water Patrol;

(c) If carrying or using any inflammable or toxic fluid in any inclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person;

(d) Such additional equipment designed to promote the safety of navigation and of persons as the Division of Water Patrol may find to be appropriate and for which it has provided in its rules and regulations;

(e) If ***the vessel is a motorboat with a marine toilet facility, a decal showing the marine sanitation device has passed inspection in the current year of registration***~~[such motorboat is equipped with toilet facilities, a storage container or a treatment or disposal system of size and construction sufficient to protect and preserve the waters of this state from pollution. The storage container or treatment or disposal system shall conform to the construction, performance and utilization criteria as may be established by regulations promulgated pursuant to this chapter]~~;

(f) The certificate number.

(2) Except during an authorized race or regatta, which shall include trial runs in preparation for such race or regatta to be conducted at a time and place designated by the Division of Water Patrol, it shall be illegal to operate any motorboat without an effective exhaust muffling system, or in any manner which renders the exhaust muffling system ineffective in muffling the sound of engine exhaust.

(3) No person shall operate or give permission for the operation of a motorboat which is not equipped as required by this section or modification thereof, or which is not safe for operation as a motorboat.

Section 11. KRS 235.230 is amended to read as follows:

(1) The owner of a boat ***marina***~~[livery]~~ shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat; the identification number thereof; and the departure time and date, and the expected time of return. The record shall be preserved for at least six (6) months.

(2) Neither the owner of a boat ***marina***~~[livery]~~, nor his agent or employee shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat ***to*** depart from his premises unless it shall have been provided, either by ***the*** owner or ***the*** renter, with the equipment ***and decal*** required pursuant to KRS 235.200 and any rules and regulations made pursuant thereto, except that the operator need not have the certificate of registration in his possession.

(3) The certificate of registration and number for vessels leased or rented by a ***marina***~~[livery]~~ may be retained on shore by the owner of the ***marina***~~[livery]~~ or his representative at the place from which the vessel departs or returns to the possession of the livery or his representative; provided, however, the operator shall have with him a copy of the lease or rental agreement signed by the ***marina***~~[livery]~~ owner or an authorized representative of the ***marina***~~[livery]~~ and by the person leasing or renting the vessel that contains the vessel's number which appears on the certificate of number and the period of time for which the vessel is leased or rented.

(4) By July 15, 2000, the owner of a boat marina shall provide access to sewage pumpout facilities for the owners of motorboats with marine toilet facilities. For the purpose of this subsection, a "sewage pumpout facility" means equipment designed to receive the discharge of sewage from a marine sanitation device and dispose of the sewage in a manner that prevents the sewage from entering the waters of the state.

Section 12. KRS 235.310 is amended to read as follows:

(1) The commissioner of the Department of Fish and Wildlife Resources shall designate the officers and employees of the division to enforce the provisions of this chapter and these officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter these officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, ***shall have the right to enter boat marinas to determine if sewage pumpout facilities, as defined in Section 11 of this Act, have been made available,*** and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents ***and inspect their marine sanitation device to determine if it prevents the discharge of sewage into the waters of the state***. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.

(2) The water patrol officers shall be authorized to possess and use radio communication equipment capable of receiving and

transmitting on state police radio frequency. The Department of State Police shall cooperate with the Division of Water Patrol for the purpose of radio communication of water patrol officers when any assistance is necessary.

SECTION 13. A NEW SECTION OF KRS 235.410 TO 235.470 IS CREATED TO READ AS FOLLOWS:

The Natural Resources and Environmental Protection Cabinet may promulgate administrative regulations to aid the implementation of its responsibilities under Sections 7, 8, and 9 of this Act.

Section 14. The following KRS sections are repealed:

235.450 Motorboat not deemed equipped with marine toilet if toilet made inoperable in approved manner.

235.460 Cabinet to furnish list of approved water pollution control devices upon request.

235.470 Cabinet to issue regulations and standards -- Approval of equipment.

Section 15. Sections 3, 4, and 5 shall be enforced until July 15, 2000, only by the issuance of a warning and the distribution of information about Sections 1 to 13 of this Act.

Section 16. Sections 7, 8, 9, and 10 of this Act shall become effective July 15, 2000.

The Committee Substitute to **HB 4** is as follows:

AN ACT relating to water pollution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

  (a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters;[~~ and~~]

  (b) Boats propelled by human power employing the use of hand or foot operation; ***and***

  (c) Federally regulated commercial vessels;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Cabinet" means the Tourism Cabinet;

(8) "Department" means the Department of Fish and Wildlife Resources;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means county clerk;

(11) "Division of Water Patrol" means the Division of Water Patrol, Department of Fish and Wildlife Resources within the Tourism Cabinet;

(12) "Title" means the certificate of title;[~~ and~~]

(13) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources***;***

(14) "Federally regulated commercial vessel" means any vessel holding a United States certificate of documentation with a coastwise trade endorsement;

(15) "Marina" means a dock or basin providing moorings for motorboats and offering supply, repair, or other services for remuneration; and

(16) "Marine sanitation device" means equipment that is identified by the U.S. Coast Guard as meeting the standards of the U.S. Environmental Protection Agency or that is approved by the Natural Resources and Environmental Protection Cabinet, to eliminate the discharge of untreated sewage from vessels into the waters of the Commonwealth and is a device that receives, treats, retains, or discharges sewage.

Section 2. KRS 235.410 is amended to read as follows:

As used in KRS 235.410 to ***235.470***[~~235.480~~], unless the context clearly indicates otherwise, the following words shall have the following meanings:

(1) "Motorboat" means any vessel***, except for a federally regulated commercial vessel,*** propelled by machinery, whether or not such machinery is the principal source of propulsion[~~, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any federal agency successor thereto~~];

(2) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(3) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever;

(4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, vessels, or other places, together with such industrial wastes, underground, surface, storm or other water, as may be present;

(5) "Industrial wastes" means liquid, or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource;

(6) "Other wastes" means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage and all other foreign substances not included within the above definitions of industrial wastes and sewage which may cause or contribute to the pollution of any waters of the Commonwealth[~~;~~

~~(7) "Cabinet" means the Natural Resources and Environmental Protection Cabinet~~].

Section 3. KRS 235.420 is amended to read as follows:

No person shall discharge or permit ***from any vessel*** the discharge of sewage, industrial wastes or other wastes to the waters of the Commonwealth[~~ from any vessel~~] except ***for state waters into which discharges are allowed under federal law***[~~as specifically authorized by the cabinet~~].

Section 4. KRS 235.430 is amended to read as follows:

No person shall dispose of sewage accumulated in a holding tank***, a marine sanitation device,*** or other similar container on a vessel in ***a***[~~such~~] manner that the sewage reaches or may reach the waters of the Commonwealth except ***for state waters into which discharges are allowed under federal law***[~~through a disposal system or treatment works approved by the cabinet~~].

Section 5. KRS 235.440 is amended to read as follows:

No motorboat equipped with marine toilet facilities shall be [~~operated~~] on the waters of the Commonwealth unless ***the***[~~such~~] motorboat is equipped with a ***marine sanitation device***[~~water pollution control device of one (1) of the following types:~~

~~(1) Holding tanks. Holding tanks approved for use as water pollution control devices shall meet the following criteria:~~

~~(a) Be so constructed and installed as to provide for discharge of its contents only by pumping and to eliminate discharges by gravity flow;~~

~~(b) Be constructed of materials capable of withstanding the corrosive effects of sewage and odor inhibitors;~~

~~(c) Be vented so as to prevent the escape of gases and odors to motorboat interiors.~~

~~(2) Incinerators. Incinerators approved for use as water pollution control devices shall meet the following criteria:~~

~~(a) Be so designed and constructed as to reduce sewage completely to an inert ash and provide a satisfactory means of ash removal;~~

~~(b) Be vented so as to prevent the escape of gases and odors to motorboat interiors and otherwise minimize the presence of objectionable conditions. Forced air ventilation must be provided for use at all times during the incineration operating cycle;~~

~~(c) Provide safeguards to minimize the dangers of shock or explosion from operation of the unit.~~

~~(3) Devices with effluent discharges. Types of water pollution control devices providing for discharges of treated sewage to the waters of the Commonwealth shall be approved or disapproved on an individual basis by the cabinet. In approving or disapproving such types of devices, the cabinet shall consider whether the quality of performance of the type of device has been certified by the National Sanitation Foundation or a comparable national testing agency approved by the cabinet as meeting its criteria, and the cabinet shall consider such other factors as it deems appropriate to prevent and abate water pollution. All water pollution control devices approved for use on motorboats with marine toilet facilities shall be maintained in satisfactory working condition at all times that the motorboat is in operation~~].

Section 6. KRS 235.070 is amended to read as follows:

(1) Every person seeking a title and registration or renewal registration for operation of a motorboat shall apply to the county clerk of the county as provided in KRS 235.050 and make application on a form furnished by the Transportation Cabinet. The application shall contain the full name and signature, Social Security number or federal tax identification number, citizenship of applicant, date of birth, sex, present resident address, situs for ad valorem tax assessment, the make of the boat, hull identification number (HIN), if any, length, beam, model, and horsepower of motor, maximum capacity, type of

hull material, intended use of the boat, and whether the fuel is gasoline, diesel, or other. The application shall state whether the motorboat is equipped with ***marine*** toilet facilities and shall ***state if the marine sanitation device for the toilet is properly operating and properly used for the water body where the motorboat is kept or operated***[~~describe the number and type of the facilities and shall state whether the storage container or treatment or disposal system for those facilities is a type approved by regulations promulgated pursuant to this chapter~~]. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, or refused, and if so, the date of and reason for cancellation, suspension, revocation, or refusal, and such other information as may be required.

(2) Every applicant shall submit the motorboat title or registration with the application as required below:

(a) If the motorboat is titled in Kentucky, the applicant shall submit the title with the application for title and registration;

(b) If the motorboat is registered in Kentucky but has not been titled in Kentucky, the applicant shall submit the certificate of registration with the application for title and registration;

(c) If the applicant is applying for a registration renewal, he shall submit the certificate of registration;

(d) If the motorboat is titled in another jurisdiction, the applicant shall submit the title with the application for title and registration;

(e) If the motorboat is registered in another jurisdiction, but not titled in any jurisdiction, the applicant shall submit the certificate of registration with the application for title and registration; and

(f) ***Vessels holding a United States certificate of documentation***[~~Motorboats or other vessels registered and licensed under the jurisdiction of the United States Coast Guard and holding a valid annual license~~] shall be exempt from the provisions of this section.

(3) Every applicant shall ***certify that the statements made in the application are true***[~~make oath as to the truthfulness of the statements contained in the form~~]. ***The clerk shall inform the applicant that making false statements on the application regarding a marine boat toilet may lead to being fined under Section 10 of this Act.***

(4) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a current certificate of registration or renewal thereof.

(5) No certificate of registration or renewal thereof for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to this chapter.

Section 7. KRS 235.230 is amended to read as follows:

(1) The owner of a boat ***marina***[~~livery~~] shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat; the identification number thereof; and the departure time and date, and the expected time of return. The record shall be preserved for at least six (6) months.

(2) Neither the owner of a boat ***marina***[~~livery~~], nor his agent or employee shall permit any motorboat or any vessel ***owned or leased***[~~designed or permitted~~] by him to be operated as a motorboat ***to*** depart from his premises unless it shall have been provided, either by ***the*** owner or ***the*** renter, with the equipment required pursuant to KRS 235.200 and any rules and regulations made pursuant thereto, except that the operator need not have the certificate of registration in his possession.

(3) The certificate of registration and number for vessels leased or rented by a ***marina***[~~livery~~] may be retained on shore by the owner of the ***marina***[~~livery~~] or his representative at the place from which the vessel departs or returns to the possession of the livery or his representative; provided, however, the operator shall have with him a copy of the lease or rental agreement signed by the ***marina***[~~livery~~] owner or an authorized representative of the ***marina***[~~livery~~] and by the person leasing or renting the vessel that contains the vessel's number which appears on the certificate of number and the period of time for which the vessel is leased or rented.

(4) By July 15, 2000 the owner of a marina shall provide access to sewage pumpout facilities for the owners of motorboats with marine toilet facilities. For the purpose of this subsection a sewage pumpout facility means equipment designed to receive the discharge of sewage from a marine sanitation device and allow the disposal of the sewage in a manner that prevents the sewage from entering the waters of the state. To provide access to sewage pumpout facilities a marina owner may, by way of illustration and not to limit the options available to a marina owner:

(a) Build and operate pumpout facilities;

(b) Contract with another marina owner with pumpout facilities, if the contracting marinas are not more than eight (8) water miles apart and accessible in a way that does not require motorboats to be trailered; and

(c) Contract with a person licensed under KRS 211.972 to provide pumpout facility service, if the service is available during normal business hours including holidays and if the service can be provided within a

reasonable time upon request by a motorboat owner.

Section 8. KRS 235.310 is amended to read as follows:

(1) The commissioner of the Department of Fish and Wildlife Resources shall designate the officers and employees of the division to enforce the provisions of this chapter and these officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter these officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents ***and inspect their marine sanitation device to determine if it is the proper kind for the water body where the boat is kept or operated and that the device is properly operating. To conduct the marine sanitation device inspection the department officers and employees may require a motorboat owner to flush a dye through the marine toilet in the presence of the department officers or employees or use other appropriate measures to inspect the device***. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.

(2) The water patrol officers shall be authorized to possess and use radio communication equipment capable of receiving and transmitting on state police radio frequency. The Department of State Police shall cooperate with the Division of Water Patrol for the purpose of radio communication of water patrol officers when any assistance is necessary.

Section 9. KRS 235.270 is amended to read as follows:

(1) In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Division of Water Patrol pursuant to KRS 235.250 shall be transmitted to said official or agency of the United States.

(2) The commissioner shall enter into an agreement with the United States Coast Guard to accept Coast Guard inspections of vessels for the purpose of determining if the vessel's marine sanitation device is the proper kind for the water body where the vessel is kept or operated and that it is properly operating. The commissioner may enter into agreements with any other professional or qualified group, organization, or individual to accept certified inspections of vessels for the purpose of determining if the vessel's marine sanitation device is the proper kind for the water body where the vessel is kept or operated and that it is properly operating.

Section 10. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100). ***After July 15, 2000, any person who violates Section 7 of this Act shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100) and each day the violation continues may constitute a separate offense.***

(2) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100).

(3) Any person who makes a false statement regarding a marine boat toilet on the application for registration or renewal registration for a motorboat shall be fined one hundred dollars ($100). This penalty shall be separate from any other penalty that may be applicable for violation of this chapter.

Section 11. The following KRS sections are repealed:

235.450 Motorboat not deemed equipped with marine toilet if toilet made inoperable in approved manner.

235.460 Cabinet to furnish list of approved water pollution control devices upon request.

235.470 Cabinet to issue regulations and standards – Approval of equipment.

235.480 Appeals of cabinet orders.

Section 12. Sections 3, 4, and 5 of this Act and the amendment contained in Section 6 of this Act shall be enforced until July 15, 2000, only by the issuance of a warning and the distribution of information about Sections 1 to 8 and Section 10 of this Act.

HB 171, AN ACT relating to radioactive waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds:

(a) That the Central Midwest Interstate Low-Level Radioactive Waste Compact was enacted by the State of

Illinois and the Commonwealth of Kentucky to provide the instrument and framework for a cooperative effort, and to provide sufficient facilities for the proper management of low-level radioactive waste generated within the region, limiting the number of facilities, protecting the health and safety of citizens, and promoting the volume and source reduction of low-level radioactive waste generated in the region, and for other purposes.

(b) That it is the responsibility of each party state to the compact to prescribe and enforce penalties against any person who is not an officer of another state for violation of any provision of the compact.

(2) It is the purpose of Sections 1 to 6 of this Act to establish a program by which these sections and the provisions of the compact may be implemented and enforced.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the compact requires otherwise:

(1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;

(4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;

(5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;

(6) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act. This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;

(7) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region;

(8) "Naturally-occurring radioactive material and waste" means any nuclide that is radioactive in its natural physical state (i.e., is not man-made) but does not include source, by-product, or special nuclear material;

(9) "Person" means any individual, corporation, business enterprise, or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity;

(10) "Region" means the geographical area of the state of Illinois and the Commonwealth of Kentucky;

(11) "Regional facility" means any facility as defined in this section that is located in Kentucky, and established by Kentucky pursuant to designation of Kentucky as a host state by the commission;

(12) "Storage" means the temporary holding of radioactive material for treatment or disposal; and

(13) "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise authorized by the commission:

(a) After the effective date of this Act, no person shall deposit at a facility in Kentucky any waste not generated within the region.

(b) After the effective date of this Act, no person shall accept at a facility in Kentucky waste not generated within the region.

(c) No person shall deposit at any regional facility in Kentucky any waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(d) No person shall accept at any regional facility in Kentucky any waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(e) No person shall export from the region waste that is generated in Kentucky, other than waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any

research, development, testing, or production of any atomic weapon.

(f) No person shall dispose of waste in Kentucky except at a regional disposal facility.

(g) No person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of waste from outside the region shall dispose of any waste, regardless of origin, at a facility in Kentucky without prior specific approval by the commission.

(2) No person shall treat or store waste at a facility other than a regional facility, if the treatment or storage is prohibited by the commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall promulgate administrative regulations to administer and enforce the provisions of Sections 1 to 6 of this Act. The administrative regulations shall be promulgated with the consultation and cooperation of the commission.

(2) Administrative regulations promulgated by the cabinet shall prohibit the shipment into or acceptance of waste in Kentucky if the shipment or acceptance would result in a violation of any provision of the compact or Sections 3, 4, and 5 of this Act.

(3) The cabinet may, by administrative regulation, impose conditions on the shipment into or acceptance of waste in Kentucky that the cabinet determines to be reasonable and necessary to enforce the provisions of Sections 3, 4, and 5 of this Act. The conditions may include, but are not limited to:

(a) Requiring prior notification of any proposed shipment or receipt of waste;

(b) Requiring the shipper or recipient to identify the location to which the waste will be sent for disposal following treatment or storage in Kentucky;

(c) Limiting the time that waste from outside of Kentucky may be held in Kentucky;

(d) Requiring the shipper or recipient to post bond, or by other mechanisms assure that radioactive material will not be treated, stored, or disposed of in Kentucky in violation of any provisions of Sections 3, 4, and 5 of this Act; and

(e) Requiring that the shipper consent to service of process before shipment of waste into Kentucky.

(4) The administrative regulations promulgated by the cabinet may provide for the granting of exemptions, but only upon a showing by the applicant that the granting of an exemption would be consistent with the compact.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Any person who fails to comply with any provision of KRS 211.859 or Section 3 of this Act, or with any administrative regulations promulgated pursuant to KRS 211.859 or Section 4 of this Act, or fails to comply with any order of the cabinet issued pursuant to KRS 211.859 or Sections 3 and 4 of this Act shall be assessed a civil penalty not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000). Each day of the violation or noncompliance shall constitute a separate offense.

(2) Any person who fails to pay a civil penalty imposed pursuant to subsection (1) of this section, or any portion of that penalty, shall be liable in a civil action in an amount not to exceed four (4) times the amount imposed and not paid. Any civil penalties recovered shall be deposited into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of Sections 1 to 6 of this Act.

(3) Any person who intentionally violates a provision of Section 3 of this Act shall be guilty of a Class D felony.

(4) At the request of the cabinet, the Attorney General shall, on behalf of the Commonwealth of Kentucky, bring an action for the recovery of any civil penalty or the prosecution of any criminal offense in violation of Sections 3 and 4 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The cabinet may accept donations of money, equipment, supplies, materials, and services from any person for accomplishing the purposes of Sections 1 to 6 of this Act. Any donation of money shall be deposited into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of Sections 1 to 6 of this Act and shall be expended by the cabinet only in accordance with the purposes of the donation.

The Committee Substitute to **HB 171** is as follows:

AN ACT relating to radioactive waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds:

(a) That the Central Midwest Interstate Low-Level Radioactive Waste Compact was enacted by the State of Illinois and the Commonwealth of Kentucky to provide the instrument and framework for a cooperative effort, and to provide sufficient facilities for the proper management of low-level radioactive waste generated within the region, limiting the number of facilities, protecting the health and safety of citizens, and promoting the volume and source reduction of low-level radioactive waste generated in the region, and for other purposes.

(b) That it is the responsibility of each party state to the compact to prescribe and enforce penalties against any person who is not an officer of another state for violation of any provision of the compact.

(2) It is the purpose of Sections 1 to 6 of this Act to establish a program by which these sections and the provisions of the compact may be implemented and enforced.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the compact requires otherwise:

(1) "Commission" means the Central Midwest Interstate Low-Level Radioactive Waste Commission;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Compact" means the Central Midwest Interstate Low-Level Radioactive Waste Compact;

(4) "Disposal" means the isolation of waste from the biosphere in a permanent facility designed for that purpose;

(5) "Facility" means a parcel of land or site, together with the structures, equipment, and improvements on, or appurtenant to, the land or site, that is used or is being developed for the treatment, storage, or disposal of low-level radioactive waste;

(6) "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or by-product material as defined in Section 11e(2) of the Federal Atomic Energy Act. This definition shall apply regardless of any declaration by the federal government or any state that any radioactive material is exempt from any regulatory control;

(7) "Management plan" means the plan adopted by the commission for the storage, transportation, treatment, and disposal of waste within the region;

(8) "Naturally-occurring radioactive material" (NORM) means naturally occurring materials not regulated under the Atomic Energy Act of 1954, as amended, whose radionuclide concentrations have been increased by or as a result of human practices. Naturally occurring radioactive material does not include the natural radioactivity of rocks or soils, or background radiation, but instead refers to materials whose radioactivity is technologically enhanced by controllable practices (or by past human practices). Naturally occurring radioactive material is not "low-level radioactive waste" as defined in subsection (6) of this section.

(9) "Person" means any individual, corporation, business enterprise, or other legal entity, public or private, and any legal successor, representative, agent or agency of that individual, corporation, business enterprise, or legal entity;

(10) "Region" means the geographical area of the state of Illinois and the Commonwealth of Kentucky;

(11) "Regional facility" means any facility as defined in this section that is located in Kentucky, and established by Kentucky pursuant to designation of Kentucky as a host state by the commission;

(12) "Storage" means the temporary holding of radioactive material for treatment or disposal; and

(13) "Treatment" means any method, technique, or process, including storage for radioactive decay, designed to change the physical, chemical, or biological characteristics of the radioactive material in order to render the radioactive material safe for transport or management, amenable to recovery, convertible to another usable material, or reduced in volume.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise authorized by the commission:

(a) After the effective date of this Act, no person shall deposit at a facility in Kentucky any low-level radioactive waste not generated within the region.

(b) After the effective date of this Act, no person shall accept at a facility in Kentucky low-level radioactive waste not generated within the region.

(c) No person shall deposit at any regional facility in Kentucky any low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(d) No person shall accept at any regional facility in Kentucky any low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a

result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(e) No person shall export from the region low-level radioactive waste that is generated in Kentucky, other than low-level radioactive waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing, or production of any atomic weapon.

(f) No person shall dispose of low-level radioactive waste in Kentucky except at a regional disposal facility.

(g) No person who provides a service by arranging for the collection, transportation, treatment, storage, or disposal of low-level radioactive waste from outside the region shall dispose of any low-level radioactive waste, regardless of origin, at a facility in Kentucky without prior specific approval by the commission.

(h) No person shall import naturally occurring radioactive material (NORM) from outside the region without prior specific approval of the commission.

(2) No person shall treat or store low-level radioactive waste at a facility other than a regional facility, if the treatment or storage is prohibited by the commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall promulgate administrative regulations to administer and enforce the provisions of Sections 1 to 6 of this Act. The administrative regulations shall be promulgated with the consultation and cooperation of the commission.

(2) Administrative regulations promulgated by the cabinet shall prohibit the shipment into or acceptance of low-level radioactive waste in Kentucky if the shipment or acceptance would result in a violation of any provision of the compact or Sections 3, 4, and 5 of this Act.

(3) The cabinet may, by administrative regulation, impose conditions on the shipment into or acceptance of low-level radioactive waste in Kentucky that the cabinet determines to be reasonable and necessary to enforce the provisions of Sections 3, 4, and 5 of this Act. The conditions may include, but are not limited to:

(a) Requiring prior notification of any proposed shipment or receipt of low-level radioactive waste;

(b) Requiring the shipper or recipient to identify the location to which the low-level radioactive waste will be sent for disposal following treatment or storage in Kentucky;

(c) Limiting the time that low-level radioactive waste from outside of Kentucky may be held in Kentucky;

(d) Requiring the shipper or recipient to post bond, or by other mechanisms assure that radioactive material will not be treated, stored, or disposed of in Kentucky in violation of any provisions of Sections 3, 4, and 5 of this Act; and

(e) Requiring that the shipper consent to service of process before shipment of low-level radioactive waste into Kentucky.

(4) The administrative regulations promulgated by the cabinet may provide for the granting of exemptions, but only upon a showing by the applicant that the granting of an exemption would be consistent with the compact.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Any person who fails to comply with any provision of KRS 211.859 or Section 3 of this Act, or with any administrative regulations promulgated pursuant to KRS 211.859 or Section 4 of this Act, or fails to comply with any order of the cabinet issued pursuant to KRS 211.859 or Sections 3 and 4 of this Act shall be assessed a civil penalty not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000). Each day of the violation or noncompliance shall constitute a separate offense.

(2) Any person who fails to pay a civil penalty imposed pursuant to subsection (1) of this section, or any portion of that penalty, shall be liable in a civil action in an amount not to exceed four (4) times the amount imposed and not paid. Any civil penalties recovered shall be deposited into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of Sections 1 to 6 of this Act.

(3) Any person who intentionally violates a provision of Section 3 of this Act shall be guilty of a Class D felony.

(4) At the request of the cabinet, the Attorney General shall, on behalf of the Commonwealth of Kentucky, bring an action for the recovery of any civil penalty or the prosecution of any criminal offense in violation of Sections 3 and 4 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The cabinet may accept donations of money, equipment, supplies, materials, and services from any person for accomplishing the purposes of Sections 1 to 6 of this Act. Any donation of money shall be deposited into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of Sections 1 to 6 of this Act

and shall be expended by the cabinet only in accordance with the purposes of the donation.

Representative Deskins moved that the rules be suspended to grant floor privileges to former Representative Clayton Little. Agreed.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 1** has been posted for passage in the Orders of the Day for January 28, 1998.

Orders of the Day

HB 208 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 208** be passed.

On the roll call the vote was: Yeas 87, Nays 3 (See January 27 , 1998 roll call on **HB 208** - Appendix.) **HB 208** was passed and the title agreed to. Representative Ford moved that the vote by which **HB 208** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 313 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 313** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See January 27 , 1998 roll call on **HB 313** - Appendix.) **HB 313** was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 313** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 314** be passed.

On the roll call the vote was: Yeas 96, Nays 1 (See January 27 , 1998 roll call on **HB 314** - Appendix.) **HB 314** was passed and the title agreed to. Representative Wilkey moved that the vote by which **HB 314** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 264 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 264** be passed.

On the roll call the vote was: Yeas 99, Nays 0 (See January 27 , 1998 roll call on **HB 264** - Appendix.) **HB 264** was passed and the title agreed to. Representative Collins moved that the vote by which **HB 264** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 165 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 165** be passed.

On the roll call the vote was: Yeas 97, Nays 2 (See January 27 , 1998 roll call on **HB 165** - Appendix.) **HB 165** was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 165** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 166 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 166** be passed.

On the roll call the vote was: Yeas 92, Nays 4 (See January 27 , 1998 roll call on **HB 166** - Appendix.) **HB 166** was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 166** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 173** be taken from the Clerk's Desk and placed in the Orders of the Day for January 28, 1998. Agreed.

HB 61, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 61**. Agreed.

Representative Clarke moved that **HB 61**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 6 (See January 27, 1998 roll call on **HB 61** - Appendix.) **HB 61**, by way of Committee Substitute, was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 61**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills

HB 425, by Representative DeWeese: AN ACT relating to zoning map amendments.

HB 426, by Representative Murgatroyd: AN ACT relating to vehicles.

HB 427, by Representative Long: AN ACT relating to financial administration.

HB 428, by Representative Geveden: AN ACT relating to procurement.

HB 429, by Representative Richards: AN ACT relating to insurance.

HB 430, by Representatives J. Adams, Bruce, Weaver, Ballard, McKee, Siler, D. Graham, Gee, Napier, Lee, Zimmerman and Riggs: AN ACT relating to reorganization.

HB 431, by Representative Coleman: AN ACT relating to traffic regulations.

HB 432, by Representatives Jenkins, Nesler, Riggs, Bratcher, Horlander, P. Clark, D. D. Butler, Baugh, Brown, Burch, and Stumbo: AN ACT relating to powers of fiscal courts and declaring an emergency.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 312, HB 390, HB 409**

Transportation: **HB 99, HB 311, HB 369, HJR 53, HJR 58**

Labor and Industry: **HB 306, HB 353, SB 26**

Natural Resources and Environment: **HB 172, HB 282, HB 354, HB 362, HB 371, HB 326**

Motions, Petitions and Communications (Continued)

Representative Nesler moved the adoption of the following **Legislative Citation No. 40**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Billy Ed Bruce. The House of Representatives joins Representative Fred Nesler in expressing its deepest sympathy to The Bruce Family and to all who share in the great loss on the passing of Billy Ed Bruce, a man of great courage and determination, who was gravely injured in an automobile accident in 1977, when only twenty-seven years old. He spent the next twenty years bravely facing the challenges that life had dealt him. This was a generous and kind man who struggled to be productive and to lend meaning and direction to the difficult circumstances of his life. As a young man, after graduating from Sedalia High School, he served in the U.S. Army. Billy Ed Bruce loved his family, loved his community and never failed to "have a plan." He was dearly loved and cared for by this family and he will be sadly missed by those whose lives he touched. **Legislative Citation No. 40** was adopted without objection.

Representative Hatcher moved the adoption of the following **HR 56**:

HR 56, A RESOLUTION adjourning the House of Representatives in honor of the Reverend William T. Lee, Sr. upon the occasion of his imminent retirement.

WHEREAS, the Reverend, William T. Lee, Sr. is a native of Oldham County, and longtime resident of Louisville, Kentucky; he has shared his life and ministry with his devoted wife, Dorothy Jean, their four children, their grandchildren, and great-grandchildren; and

WHEREAS, the Reverend William T. Lee, Sr. began his ministry as Interim Pastor at the First Baptist Church in La Grange, Kentucky; he served for five years as Assistant Pastor to the Reverend A.K. Bennett at Main Street Baptist Church in New Castle, Kentucky, where he later became Pastor for three and one-half years; in Louisville, Kentucky, he has been affiliated with the Little Flock Baptist Church and St. Paul Baptist Church; and for the past fifteen years, he has served as Pastor at Highland Park Missionary Church; and

WHEREAS, the Reverend William T. Lee, Sr., as a devout messenger of God in seeking the lost, and leading many souls to redemption, is admired for his guidance, his wisdom, his compassion, and his spirit of benevolence for all his flock; and

WHEREAS, the Reverend William T. Lee, Sr. will be retiring from thirty-three years of ministry on Sunday, January 25, 1998, and in commemoration of the many years of peace and joy he has given to his congregations, the members of Highland Park Missionary Baptist Church are giving a black-tie retirement reception in his honor;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud to honor the Reverend William T. Lee, Sr. upon the occasion of his imminent retirement on January 25, 1998, for his many years of dedicated service to his community and to the Commonwealth of Kentucky.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Reverend William T. Lee, Sr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Reverend William T. Lee, Sr., Pastor, Highland Park Missionary Baptist Church, 3700 Shanks Lane, Louisville, Kentucky 40216.

There being no objection **HR 56** was adopted.

Representative Scott moved that **HB 261** be withdrawn. Agreed.

Representative Stein moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Stein moved that she be recorded as voting "yea" on **HB 208**. Agreed.

Floor Amendments

Floor Amendment No. 5 to **HB 173**, by Representative Heleringer:

On page 14, between lines 25 and 26, by inserting the following:

"***(d) Any member changing parties, upon his retirement, will be subject to being roasted twice at the annual retirement roast.***"

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 25**, Representative Walton; **HB 70**, Representatives Crall, Kerr; **HB 85**, Representative Crall, Ford; **HB 106**, Representatives Alexander, D. D. Butler, McKee, Stewart; **HB 289**, Representatives Gooch, Johns, Crenshaw, Stein, A. Arnold, Haydon, R. Adams, Crimm, Heleringer, Hoffman ; **HB 408**, Representatives Baugh, Ford, Hoover, Napier, Ratliff.

Announcements

The following meetings were announced:

Central Kentucky Caucus, Reception, Room 111, upon adjournment.

Labor and Industry, 8:30 a.m., January 29, 1998.

Education, upon adjournment, January 28, 1998.

Majority Party, 5:00 p.m., Reception, Democratic Headquarters.

Budget Review Subcommittee on Education, 10:00 a.m., January 28, 1998.

The following meeting has been canceled:

Elections and Constitutional Amendments, January 28, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., January 28, 1998.

On the roll call the vote was **Yeas 68**--R. Adams, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, Bruce, Callahan, Cave, L. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Damron, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Haydon, Hoffman, Hogancamp, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Palumbo, Polston, Pope, Rader, Rasche, Reinhardt, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 8**--Bratcher, D. D. Butler, Crall, Hatcher, Heleringer, Nesler, Nunn, Wayne.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 28, 1998

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gary Straub, First Christian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Moberly and Hatcher.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 27, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed..

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **HB 64**, **SB 6**, **SB 22**, **SB 54**, **SB 66**, **SB 67**, **SB 78**, **SB 139**, **SB 148**, and **SB 154**. (Time: 2:05 p.m.)

Representative Callahan moved that the rules be suspended to grant floor privileges to former Representative Bill Donnermeyer. Agreed.

Introduction of Bills and Resolutions

HB 433, by Representatives R. Adams, D. Graham, Damron, Ballard, Stacy, Thomas, McKee, A. Arnold, Bruce, Pope, Long, Moberly, Brown, Lee, Hoffman, Haydon, Nesler and P. Clark: AN ACT relating to sales and use tax.

HB 434, by Representatives Burch and Stumbo: AN ACT relating to the provision of support services for low income parents in the process of achieving self-sufficiency.

HB 435, by Representatives Curd, Colter, and Stein: AN ACT relating to education.

HB 436, by Representatives Curd, Colter, and Stein: AN ACT relating to education.

HB 437, by Representatives Deskins, Gooch, and Brown: AN ACT relating to the Kentucky Forest Conservation Act.

HB 438, by Representative Geveden: AN ACT relating to state personnel.

HCR 59, by Representatives Weaver, Haydon, Hoffman, Lee, Miller, Anderson, Bowling, Ford, Stumbo, Richards, Sims, McKee, Pope, Yonts, Stewart, Turner, Stein, Barrows, J. Adams, Siler, Zimmerman, L. Clark, Callahan, R. Adams, and Rader: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Special Subcommittee for Military and Defense-Related Issues.

HJR 60, by Representative Zimmerman: A JOINT RESOLUTION directing the Department of Insurance to conduct a comprehensive study of credit health and credit life insurance.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 429, SB 63**

Counties and Special Districts: **HB 425, HB 432**

Education: **HB 424, SB 147, SB 160, SB 163**

State Government: **HB 427, HB 428, HB 430**

Transportation: **HB 426, HB 431**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 381**

Tourism Development and Energy: **HB 399, HB 405**

Banking and Insurance: **HB 429**

Report of Committees

The Committee on Counties and Special Districts reported **HB 15** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 15, AN ACT relating to special local peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer, or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) If a deputy constable[~~ or special local peace officer appointed pursuant to KRS 61.360~~], he has resided in the county wherein he is appointed to serve for a period of at least two (2) years; and if a deputy sheriff, he agrees to reside in the county wherein he is appointed within ninety (90) days of his appointment, and to continue his residence therein during the term of his appointment. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute; and

(5) He has complied with the provisions of KRS 15.333.

Section 2. KRS 61.360 is amended to read as follows:

The Governor or his agent may appoint special local peace officers, for such time as he deems necessary, to preserve the peace and protect the property of any person from waste or destruction, provided, however, that no such peace officer(s) shall be actively employed at any factory, mine, workshop, retail establishment, or at any other location where a strike, a slowdown, a sit in, or any other type of work stoppage exists, if the employment of such peace officer(s) would result in the unreasonable expansion of the normal complement of such peace officers or the relieving of normal guards or peace officers to perform other duties. Upon the application of an owner of property for such services, and upon payment of a fee of ten dollars ($10) for each officer to be appointed, the Governor may immediately appoint the person recommended by the owner, if the person is eligible. No person shall be eligible for appointment under this section unless he has established to the satisfaction of the Governor that he possesses the following qualifications:

(1) No person shall serve as a special local peace officer:

(a) Unless he is a citizen of the United States, is twenty-one (21) years of age or over, and unless he is able to read and write;

(b) Unless he has resided in the ***Commonwealth***[~~county wherein he is appointed to serve~~] for a period of at least one (1) year;

(c) Who has ever been convicted of or is under indictment for a crime involving moral turpitude, dishonesty, or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer or employee of the United States or any state or political subdivision thereof; illegally using, carrying, or possessing a firearm or dangerous weapon; habitual drunkenness; using or selling or possessing narcotics; or who has been adjudged mentally disabled by a court of competent jurisdiction and such adjudication has not been set aside; or has renounced his citizenship, or, being an alien, is illegally or unlawfully in the United States;

(d) Who within a period of two (2) years has hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer, or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute;

(e) Unless he has filed his photograph with the county clerk of the county in which he is to serve, together with his affidavit stating his full name, age, and residence address and that he is not prohibited from serving by this section.

(2) The photograph so filed with the county clerk shall constitute a public record. The Governor may remove any officer so appointed at will or at the request of the owner of the property.

(3) The duties of the officer shall be confined to the premises of the property to be protected, except while in pursuit of a person fleeing from the property after committing an act of violence or destruction of the property. In that case, the officer may pursue the person and make arrest anywhere within this state. He may wear such badges and insignia as will plainly indicate to the public that he is a special local peace officer, but he shall not, in any event, wear any uniform, or any part thereof, of any public police officer; nor shall he in any way impersonate a public police officer or represent himself to any person or persons as being a public police officer; nor shall he perform any of the duties of a public police officer, except those specifically herein granted and at the places herein specifically designated.

(4) Application fees shall be placed in the State Treasury and credited to a revolving fund for administrative expenses.

(5) Every special local peace officer appointed pursuant to this section shall execute bond in the amount of five thousand dollars ($5,000).

The Committee on Counties and Special Districts reported **HB 83, HB 233,** and **HB 250** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 83, AN ACT relating to county road engineers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 179.020 is amended to read as follows:

(1) The county judge/executive of each county, with the consent of the fiscal court, may employ a county road engineer. Any person so employed shall be either a civil or highway engineer licensed in accordance with KRS Chapter 322, or a person who successfully passed an examination for county road engineer under this section prior to March 24, 1950, and who qualified and served as such.

(2) If the fiscal court does not provide for a county road engineer, the duties of the county road engineer, except insofar as they may be in conflict with the provisions of KRS Chapter 322, shall be performed by a county road supervisor, who shall be employed by the county judge/executive with the consent of the fiscal court, and who may be removed in the same manner provided for county road engineers. No person shall be employed as county road supervisor unless he meets the following requirements:

(a) He has at least three (3) years' practical road building experience of a nature satisfactory to examining authorities selected by the Department of Highways for the Commonwealth of Kentucky;[~~,~~] and

(b) He has passed an examination, either oral or written, or both, given by the examining authorities, and has received a certificate of qualification from the authorities.

(3) The county surveyor may be employed as county road engineer, if qualified under subsection (1) of this section, or as county road supervisor if qualified under subsection (2) of this section, and for his services as engineer or supervisor he shall receive a salary in addition to fees allowed by law for his services as county surveyor.

(4) When no qualified applicant who is acceptable to the fiscal court is available for employment, the county judge/executive, with the consent of the fiscal court, may employ a temporary supervisor not qualified under subsection (2) of this section for a period of three (3) months, but in no event shall a temporary supervisor be used for more than three (3) months during any one (1) term of a county judge/executive.

(5) This section shall not be construed to prohibit the supervision of the construction and maintenance of roads, without additional compensation, by the county judge/executive, or by committees of the fiscal court, in counties where the position of road engineer or road supervisor has not been established by the fiscal court.

(6) Two (2) or more counties, by a contract approved by order of the fiscal court of each of the counties, may authorize the county judges/executive of the contracting counties to employ the same employee as county road engineer or county road supervisor to serve in all counties so contracting, and for the apportionment of the amount of his salary to be paid by each county.

(7) The period of employment for any county road engineer or county road supervisor shall be two (2) or four (4) years, in the discretion of the fiscal court, beginning with the second Tuesday in January of an ***odd-numbered***[~~even-numbered~~] year. Other terms of employment, and the salaries of all persons employed under the provisions of this section, shall be fixed by the fiscal court.

(8) Those persons serving as a county road engineer or supervisor upon the effective date of this Act shall continue to

serve in that capacity until the second Tuesday in January of 1999 at which time the position of county road engineer or supervisor shall be reappointed for a period of employment as provided in subsection (7) of this section.

HB 233, AN ACT relating to the operation of canteens in jails.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 441.135 is amended to read as follows:

(1) The jailer may maintain a canteen for the benefit of prisoners lodged in the jail and may assign such jail employees and prisoners to operate the canteen as are necessary for efficient operation.

(2) All profits from the canteen shall be used~~[exclusively]~~ for the benefit ***or***~~[and]~~ recreation of the prisoners. The jailer shall keep books of accounts of all receipts and disbursements from the canteen and shall annually report to the county treasurer on the canteen account.

HB 250, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee ***participating in the Kentucky Employees Retirement System who is*** determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation***. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation***;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) ***Except for the employee contribution by members of the County Employees Retirement System,*** the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. ***The employee contribution for a member of the County***

Employees Retirement System shall be eight percent (8%).

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 2. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation"[~~of a member~~] means***:***

(a) For a member who is employed in a nonhazardous position, as provided in Section 1 of this Act, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is employed in a hazardous position, as provided in Section 1 of this Act, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12).

The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort; and

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in

KRS 212.434.

The Committee on Licensing and Occupations reported **HB 263**, with Committee Substitute attached thereto, and **HB 395**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 263, AN ACT relating to charitable gaming and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Division" means the Division of Charitable Gaming within the Justice Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the division are conducted, and examples of which include fairs, festivals, carnivals,[~~ and~~] bazaars***, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding***;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

- (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
- (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include a resident printer who prints raffle tickets at the request of a licensed charitable organization;

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available[~~ for financial consideration~~] to two (2) or more licensed charitable organizations ***during a one (1) year period*** for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes ***and***[~~or~~] the ***amount paid for***[~~cash value of~~] merchandise prizes ***purchased***;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils,

daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16). "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house;[~~ wagering on prerecorded horse races, KRS Chapter 230 notwithstanding;~~] and any other game of chance as identified, defined, and approved by administrative regulation of the division;[~~ and~~]

(18) ***"Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;***

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played***, including bingo held at a charity fundraising event;***

(20) "Immediate family" means:

- ***(a) Spouse and parents-in-law;***
- ***(b) Parents and grandparents;***
- ***(c) Children and their spouses; and***
- ***(d) Siblings and their spouses; and***

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility.

Section 2. KRS 238.515 is amended to read as follows:

The division shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the division shall have the following powers and duties:

(1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;

(2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;

(3) Prescribing reasonable fees for licenses;

(4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;

(5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the division shall ***have the authority to issue administrative subpoenas and summonses. The division shall also*** establish toll-free telephone service for receiving complaints and inquiries;

(6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

(7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

(8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the division; and

(9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter.

Section 3. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

- (a) The secretary of the Justice Cabinet or his designee;
- (b) The Attorney General or his designee;
- (c) One (1) representative from the Kentucky ***Commonwealth's Attorneys***[~~County Clerks'~~] Association;
- (d) One (1) representative from the Kentucky Charitable Gaming Association;
- (e) One (1) certified public accountant; and
- (f) Four (4) members selected from the public at large.

The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky ***Commonwealth's Attorneys***[~~County Clerks'~~] Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

(2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

(3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the division and to the General Assembly to assist in establishing effective policy for the licensing and regulation of charitable gaming.

(4) The commission shall meet quarterly or as otherwise directed by the division. ***Five (5)***[~~Four (4)~~] members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 4. KRS 238.525 is amended to read as follows:

(1)[~~The requirement for licenses imposed in KRS 238.530, 238.535, and 238.555 shall become effective September 16, 1994. From March 16, 1994, until September 16, 1994, any person who desires to engage in an activity that requires licensure may do so if the licensure requirements are met and the activity is conducted in accordance with the provisions of this chapter.~~

~~(2) Applications for licensure and copies of charitable gaming laws and administrative regulations shall be made available through the office of the county clerk in each county.~~

~~(3)~~] Licenses shall be issued by the division on an annual ***or biennial*** basis, except as otherwise permitted in KRS 238.530 and 238.545. A license ***term***[~~year~~] may be determined by the division in any manner it deems appropriate to facilitate efficient licensing. The division shall charge ***a***[~~an annual~~] renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2)[~~(4)~~] The division may issue a temporary license to an applicant who has[~~ substantially~~] met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3)[~~(5)~~] An applicant for any license to be issued under ***Section 5 and Section 12 of*** this ***Act***[~~chapter~~] shall be subjected to a state and national criminal history background check by the division, with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. ***An applicant for any license to be issued under Section 6 of this Act shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the division with the assistance of the Kentucky State Police and the Federal Bureau of Investigation.*** The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant[~~ organization~~]; any employee or member of an applicant[~~ organization~~] who has been designated as chairperson of the charitable gaming activity; the ***applicant itself***[~~charitable organization or business~~]; and any individual with a ten percent (10%) or more financial interest in the ***applicant***[~~business~~]. The division shall require the fingerprinting of all applicants ***for licensure under Section 5 and Section 12 of this Act and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under Section 6 of this Act,*** who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The division may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.

(4)[~~(6)~~] No applicant shall be licensed if an individual associated with the applicant in a capacity listed in subsection (5) of this section or the applicant ***itself***[~~organization~~] has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

(5)[~~(7)~~] No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (5) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The division may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.

(6)[~~(8)~~] If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the division in writing within thirty (30) days of the date the change occurred.

Section 5. KRS 238.530 is amended to read as follows:

(1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the

person is licensed by the division as a distributor. The division shall charge a license fee not to exceed one thousand dollars ($1,000).

(2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the division as a manufacturer. The division shall charge a license fee not to exceed five hundred dollars ($500).

(3) No person who is licensed as a charitable organization***, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed***[~~ or a~~] charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. ***No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or manufacturer.*** No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.

(4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the division and shall submit as part of the application process the following:

(a) The full name, address, date of birth, and Social Security number of the applicant;

(b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;

(c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;

(d) Federal employer tax number;

(e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;

(f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and

(g) Any other information the division deems appropriate.

(5) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the division to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be available for inspection by the division at reasonable times, and all records shall be maintained for a minimum of three (3) years. The division may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the division.

(6) A distributor who does not receive payment in ***accordance with the terms of its sales or lease agreement***[~~full~~] from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the division of the delinquency in writing in a form and manner prescribed by the division. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the division of the delinquency in writing in a form and manner prescribed by the division.

(7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.

(8) A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a ***distributor or a*** charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter.

(9) A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

(10) No ***owner,*** officer, employee, or contractee of a licensed distributor or licensed manufacturer ***or their affiliates, and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates,*** shall, with respect to a licensed charitable organization:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;[~~ or~~]

(g) Provide***, coordinate, or solicit the services of*** personnel or volunteers in any manner***;***

(h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;

(i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility; or

(j) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 6. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of ***ten***[~~five~~] thousand dollars ***($10,000)***[~~($5,000)~~] per year;

(b) A raffle or raffles for which the gross receipts do not exceed ***ten***[~~five~~] thousand dollars ***($10,000)***[~~($5,000)~~] per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed ***ten***[~~five~~] thousand dollars ***($10,000)***[~~($5,000)~~] per year.

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the division in writing, on a form issued by the division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the division; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the division shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities***, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request***.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030(1), as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the division, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and

(d) Have maintained an office or place of business[~~ or operation~~], other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. ***The office or place of business shall be a separate and distinct address and location from that of any other licensee of the division; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space.*** For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;[~~ and~~]

(k) ***An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the division; and***

(l) Any other information the division deems appropriate.

(10) The division may issue a[~~ limited~~] license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(11) The division shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

[~~(12) In order to continue to be qualified for licensure, a charitable organization shall continuously meet the requirements set forth in KRS 238.550(3) and (4). If a charitable organization is unable to meet those requirements, the division shall revoke the charitable organization's license or deny its application for renewal licensure by administrative action as provided in KRS 238.560.~~]

SECTION 7. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. All fees paid to the division during the calendar year shall be deducted from the adjusted gross receipts prior to making the calculation of percentage retained.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

(a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of one (1) year and shall be required to submit to the division an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the probationary period;

(b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall have its license suspended for a period of one (1) year; and

(c) If the percentage retained falls below thirty percent (30%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive time, the licensee shall have its license suspended for a period of two (2) years.

(3) Any licensee that has had its license suspended under the provisions of subsection (2)(b) or (c) of this section shall be required to submit to the division an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license.

(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke or deny its license for failure to meet the forty percent (40%) retention threshold prior to the effective date of this Act may petition the division for reconsideration of its action or proposed action. Upon petition for reconsideration, the division shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The division shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty.

Section 8. KRS 238.540 is amended to read as follows:

(1) Charitable gaming shall be conducted by a licensed charitable organization at only one (1) location ***and at the date and time*** which shall be stated on the license. A license holder shall notify the division ***at least thirty (30) days in advance*** of its intent to change ***its*** location***, date, or time*** and approval by the division shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. Any effort or attempt to disguise any other type of compensation shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company***, service company,*** or consultant in managing or conducting ***any aspect of*** charitable gaming.

(6) A licensed charitable organization shall not purchase ***or lease*** charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number.

Section 9. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) ***in fair market***[~~cash~~] value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(c) Charity game tickets may be sold, with prior approval of the division:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization ***at any off-site location***; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(d) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the division, only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The division shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in ***seal card*** games~~[using seal cards]~~. Cumulative or carryover prizes in ***seal card*** games~~[utilizing seal cards]~~ shall not exceed two thousand four hundred dollars ($2,400). Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.~~[If seal cards are used,]~~ Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the division. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) No licensed charitable organization shall conduct a charity fundraising event ***or a***~~[in which]~~ special limited ***charity fundraising event***~~[charitable games are conducted,]~~ unless they have a~~[special limited]~~ license ***for the respective event*** issued by the division. ***No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100).*** Except for state, county,~~[and]~~ city fairs, ***and***~~[a]~~ special limited ***charity fundraising events, a charity fundraising event***~~[charitable games]~~ license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total ***charity fundraising event***~~[special limited charitable game]~~ licenses per year***, including one (1) special limited charity fundraising event license***. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The division shall have broad authority to regulate the conduct of~~[gaming authorized by a]~~ special limited ***charity fundraising events in accordance with the provisions of Section 10 of this Act***~~[charitable games license issued under this subsection]~~.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

SECTION 10. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) A licensed charitable organization shall be limited to one (1) special limited charity fundraising event license per year, and a special limited charity fundraising event shall be limited to one (1) session not to exceed five (5) hours. A special limited charity fundraising event shall be conducted only between the hours of 12 noon and 1 a.m.

(2) A special limited charity fundraising event may be held:

(a) On or in the premises of a licensed charitable organization;

(b) In a licensed charitable gaming facility, subject to restrictions contained in subsection (7) of Section 12 of this Act; or

(c) At an unlicensed facility under the following conditions:

1. An unlicensed facility shall host no more than one (1) special limited charity fundraising event per

year;

2. ***The facility shall be closed to the general public during the conduct of a special limited charity fundraising event or the event shall be held in a separate room or area not accessible to the general public;***

3. ***Equipment used in the conduct of a special limited charity fundraising event shall be removed from the premises within two (2) working days after the event; and***

4. ***The unlicensed facility shall be subject to requirements stipulated in subsection (3) of Section 12 of this Act.***

(3) No cash shall be used in playing special limited charity games at a special limited charity fundraising event. Games shall be played with chips, scrip, or imitation money which shall be purchased only through a central bank or cashier under the authority of the chairperson designated by the licensed charitable organization conducting the special limited charity fundraising event. No chips, scrip, or imitation money shall be sold at a gaming table or by a dealer.

(4) Chips, scrip, or imitation money shall be redeemed for noncash prizes only. Prizes to be offered and their fair market values shall be displayed or listed in a conspicuous location within the gaming area. Prizes shall be redeemed directly or through an auction process within twenty-four (24) hours after the conclusion of the event.

Section 11. KRS 238.550 is amended to read as follows:

(1) All ***adjusted*** gross receipts from charitable gaming shall be handled only by ***chairpersons***[~~bona fide volunteers~~], officers, or employees of the licensed charitable organization. All adjusted gross receipts shall be deposited ***within two (2) business days*** into a checking account devoted exclusively to charitable gaming. ***All payments for charitable gaming expenses, prizes purchased, and any charitable donations from charitable gaming receipts shall be made from this checking account and any payments or donations***[~~Payment for legitimate expenses~~] shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The division may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(2) Accurate records and books shall be maintained by each licensed charitable organization for a period of three (3) years. Division staff shall have access to these records at reasonable times. All licensed charitable organizations shall be required to submit reports to the division at least quarterly. These reports shall include, but shall not be limited to, the following information:

(a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;

(b) The amounts or values of all prizes paid out during the reporting period***, including a listing of all prizes donated, the names of donors, and the fair market value of the donated prizes***;

(c) The names and addresses of all persons who are winners of prizes of six hundred dollars ($600) or more;

(d) All expenses paid and the names and addresses of all persons to whom expenses were paid;

(e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

(f) Any other information the division deems appropriate.

(3) No licensed charitable organization shall incur expenses, except as provided in this ***chapter***[~~subsection~~]. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the division may determine by administrative regulation to be legitimate.

[~~(4) At least forty percent (40%) of the adjusted gross receipts resulting from the conduct of charitable gaming during each two (2) consecutive calendar quarters shall be retained by the charitable organization and used exclusively for purposes~~

~~consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax exempt status or consistent with its status as a common school, as an institution of higher education, or as a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.]~~

Section 12. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The division shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). ***Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors.*** Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant; and

(f) Any other information the division deems appropriate.

(3) No ***owner,*** officer, employee, or contractee of a licensed charitable gaming facility ***or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate*** shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;~~[or]~~

(g) Provide***, coordinate, or solicit the services of*** personnel or volunteers in any manner***;***

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or

(i) Donate or give any prize to be awarded in the conduct of charitable gaming.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. ***The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease***~~[The lease shall specifically state the amount of rent to be charged and the goods and services to be provided, including concessions, if applicable]~~. The amount of rent***, goods, and services*** charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The division ***may determine if rent, goods, and services provided are consistent with the***~~[by administrative regulation may establish standards for the determination of]~~ prevailing market values. A copy of each signed lease agreement shall be filed with the division. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:

(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.

(6) A licensed charitable gaming facility shall report at least quarterly to the division and shall provide any information concerning its operation that the division may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license ***number*** of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.

SECTION 13. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

All peace officers, on being informed or having reason to believe that charitable gaming not authorized under this chapter is taking place or is about to take place, shall suppress and prevent it. For this purpose, any peace officer may enter any place where any unlicensed charitable gaming is being conducted or about to be conducted and may arrest without a warrant any person who does not submit satisfactory proof that he or she possesses the necessary license required by this chapter.

Section 14. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of ***four-tenths***[~~one half~~] of one percent ***(0.4%)***[~~(0.5%)~~] of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the division all moneys due on a quarterly basis.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Justice Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the division shall be deposited in this account. Moneys in this account shall be expended by the division only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the division shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of one-half of one percent (0.5%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

(a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the division.

(b) The division may require a bond from distributors in accordance with the administrative regulations promulgated by the division.

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 15. Whereas the conduct of certain types of charity fundraising events at unlicensed facilities has created regulatory and law enforcement problems which need to be addressed in an expedient manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute to **HB 263** is as follows:

AN ACT relating to charitable gaming and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Division" means the Division of Charitable Gaming within the Justice Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means a fundraising activity of limited duration at which games of chance approved by the division are conducted, and examples of which include fairs, festivals, carnivals,~~[and]~~ bazaars***, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding;***

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

  (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

  (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include a resident printer who prints raffle tickets at the request of a licensed charitable organization;

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available~~[for financial consideration]~~ to two (2) or more licensed charitable organizations ***during a one (1) year period*** for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes ***and***~~[or]~~ the ***amount paid for***~~[cash value of]~~ merchandise prizes ***purchased***;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house;~~[wagering on prerecorded horse races, KRS Chapter 230 notwithstanding;]~~ and any other game of chance as identified, defined, and approved by administrative regulation of the division;~~[and]~~

(18) ***"Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or***

types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played***, including bingo held at a charity fundraising event;***

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses; and

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility.

Section 2. KRS 238.515 is amended to read as follows:

The division shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the division shall have the following powers and duties:

(1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;

(2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;

(3) Prescribing reasonable fees for licenses;

(4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;

(5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the division shall ***have the authority to issue administrative subpoenas and summonses. The division shall also*** establish toll-free telephone service for receiving complaints and inquiries;

(6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;

(7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

(8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the division; and

(9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter.

Section 3. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

(a) The secretary of the Justice Cabinet or his designee;

(b) The Attorney General or his designee;

(c) One (1) representative from the Kentucky ***Commonwealth's Attorneys***[~~County Clerks'~~] Association;

(d) One (1) representative from the Kentucky Charitable Gaming Association;

(e) One (1) certified public accountant; and

(f) Four (4) members selected from the public at large.

The certified public accountant, the four (4) at-large members, and the representatives from the Kentucky ***Commonwealth's Attorneys***[~~County Clerks'~~] Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

(2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.

(3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the division and to the General Assembly to assist in establishing effective policy for the licensing and regulation of charitable gaming.

(4) The commission shall meet quarterly or as otherwise directed by the division. ***Five (5)***[~~Four (4)~~] members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 4. KRS 238.525 is amended to read as follows:

(1)[~~The requirement for licenses imposed in KRS 238.530, 238.535, and 238.555 shall become effective September 16, 1994. From March 16, 1994, until September 16, 1994, any person who desires to engage in an activity that requires licensure may do so if the licensure requirements are met and the activity is conducted in accordance with the provisions of this chapter.~~

~~(2) Applications for licensure and copies of charitable gaming laws and administrative regulations shall be made available through the office of the county clerk in each county.~~

~~(3)~~] Licenses shall be issued by the division on an annual ***or biennial*** basis, except as otherwise permitted in KRS 238.530 and 238.545. A license ***term***[~~year~~] may be determined by the division in any manner it deems appropriate to facilitate efficient licensing. The division shall charge ***a***[~~an annual~~] renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.

(2)[~~(4)~~] The division may issue a temporary license to an applicant who has[~~ substantially~~] met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.

(3)[~~(5)~~] An applicant for any license to be issued under ***Section 5 and Section 11 of*** this ***Act***[~~chapter~~] shall be subjected to a state and national criminal history background check by the division, with the assistance of the Kentucky State Police and the Federal Bureau of Investigation. ***An applicant for any license to be issued under Section 6 of this Act shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the division with the assistance of the Kentucky State Police and the Federal Bureau of Investigation.*** The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant[~~ organization~~]; any employee or member of an applicant[~~ organization~~] who has been designated as chairperson of the charitable gaming activity; the ***applicant itself***[~~charitable organization or business~~]; and any individual with a ten percent (10%) or more financial interest in the ***applicant***[~~business~~]. The division shall require the fingerprinting of all applicants ***for licensure under Section 5 and Section 11 of this Act and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under Section 6 of this Act,*** who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The division may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.

(4)[~~(6)~~] No applicant shall be licensed if an individual associated with the applicant in a capacity listed in subsection (5) of this section or the applicant ***itself***[~~organization~~] has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.

(5)[~~(7)~~] No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (5) of this section have been fingerprinted. The Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The division may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.

(6)[~~(8)~~] If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the division in writing within thirty (30) days of the date the change occurred.

Section 5. KRS 238.530 is amended to read as follows:

(1) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies or equipment unless the person is licensed by the division as a distributor. The division shall charge a license fee not to exceed one thousand dollars ($1,000).

(2) No person shall sell, offer to sell, rent, lease, or otherwise furnish charitable gaming supplies and equipment unless the person is licensed by the division as a manufacturer. The division shall charge a license fee not to exceed five hundred dollars ($500).

(3) No person who is licensed as a charitable organization***, and no owner, officer, employee, or member of the immediate family of an owner, officer, or employee of a licensed***[~~ or a~~] charitable gaming facility shall be eligible for licensure as a distributor or manufacturer. ***No affiliate of an owner, officer, or employee, or member of the immediate family of an owner, officer, or employee of a licensed charitable gaming facility shall be licensed as a distributor or***

manufacturer. No person who is a licensed wholesaler or distributor of alcoholic beverages shall be licensed as a distributor or manufacturer. No person who is licensed as a distributor shall be licensed as a manufacturer, and no person licensed as a manufacturer shall be licensed as a distributor.

(4) An applicant for a license as a manufacturer or distributor shall apply for license on forms provided by the division and shall submit as part of the application process the following:

(a) The full name, address, date of birth, and Social Security number of the applicant;

(b) If the applicant is a corporation or other business entity, the names, addresses, dates of birth, and Social Security numbers of all officers and management personnel;

(c) The name, address, date of birth, and Social Security number of any individual who has ten percent (10%) or more financial interest in the applicant organization;

(d) Federal employer tax number;

(e) A sworn statement by the applicant or the appropriate officer that all information provided is true and correct and that the applicant agrees to comply with the applicable provisions of this chapter and all applicable administrative regulations promulgated thereunder;

(f) The name, address, and telephone number of a registered agent within the Commonwealth of Kentucky, if the applicant is not a resident; and

(g) Any other information the division deems appropriate.

(5) Each licensed manufacturer and distributor shall maintain a complete set of records as may be required by the division to document all activities related to the sale, rental, lease, or furnishing of charitable gaming supplies and equipment in the Commonwealth of Kentucky. These records shall be available for inspection by the division at reasonable times, and all records shall be maintained for a minimum of three (3) years. The division may require a licensed manufacturer and distributor to report on its activity, with the content and frequency of these reports to be prescribed by administrative regulation promulgated by the division.

(6) A distributor who does not receive payment in ***accordance with the terms of its sales or lease agreement***[~~full~~] from a licensed charitable organization within thirty (30) days of the delivery of charitable gaming supplies and equipment shall notify the division of the delinquency in writing in a form and manner prescribed by the division. A manufacturer who does not receive payment in full from a distributor within sixty (60) days of the delivery of charitable gaming supplies and equipment shall notify the division of the delinquency in writing in a form and manner prescribed by the division.

(7) A licensed manufacturer shall not sell charitable gaming supplies and equipment to any person not licensed as a distributor in the Commonwealth of Kentucky.

(8) A licensed distributor shall not sell charitable gaming supplies and equipment to any person not licensed as a ***distributor or a*** charitable organization in the Commonwealth of Kentucky, unless the organization is exempted from licensure under the provisions of this chapter.

(9) A licensed distributor shall not purchase charitable gaming supplies and equipment from any person not licensed as a manufacturer or distributor in the Commonwealth of Kentucky.

(10) No ***owner,*** officer, employee, or contractee of a licensed distributor or licensed manufacturer ***or their affiliates, and no member of the immediate family of an owner, officer, employee, or contractee of a licensed distributor or licensed manufacturer or their affiliates,*** shall, with respect to a licensed charitable organization:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;[~~ or~~]

(g) Provide***, coordinate, or solicit the services of*** personnel or volunteers in any manner***;***

(h) Provide training or consulting on the conduct of charitable gaming, except in connection with the use of its own equipment or supplies;

(i) Store its charitable gaming equipment or supplies in or on the premises of a licensed charitable gaming facility; or

(j) Donate or give any prize to be awarded in the conduct of charitable gaming.

Section 6. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the division. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations

provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of ***fifteen***[~~five~~] thousand dollars ***($15,000)***[~~($5,000)~~] per year;

(b) A raffle or raffles for which the gross receipts do not exceed ***fifteen***[~~five~~] thousand dollars ***($15,000)***[~~($5,000)~~] per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed ***fifteen***[~~five~~] thousand dollars ***($15,000)***[~~($5,000)~~] per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed fifteen thousand dollars ($15,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the division in writing, on a form issued by the division, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The reporting requirements imposed under the provisions of KRS 238.550(2), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the division; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the division shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the division determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the division determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities***, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request***.

(8) In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030(1), as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the division, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "accomplishing its charitable purposes" means relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3); and

(d) Have maintained an office or place of business[~~ or operation~~], other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. ***The office or place of business shall be a separate and distinct address and location from that of any other licensee of the division; except that up to three(3) licensed charitable organizations may have the same address if they legitimately share office space.*** For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered.

(9) In applying for a license, the information to be submitted shall include, but not be limited to, the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;~~[and]~~

(k) ***An agreement that the charitable organization's records may be released by the federal Internal Revenue Service to the division; and***

(l) Any other information the division deems appropriate.

(10) The division may issue a~~[limited]~~ license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(11) The division shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(12) In order to continue to be qualified for licensure, a charitable organization shall continuously meet the requirements set forth in KRS 238.550(3) and (4). If a charitable organization is unable to meet those requirements, the division shall revoke the charitable organization's license or deny its application for renewal licensure by administrative action as provided in KRS 238.560.

Section 7. KRS 238.540 is amended to read as follows:

(1) Charitable gaming shall be conducted by a licensed charitable organization at only one (1) location ***and at the date and time*** which shall be stated on the license. A license holder shall notify the division ***at least thirty (30) days in advance*** of its intent to change ***its*** location***, date, or time*** and approval by the division shall be received by the licensee prior to the conduct of charitable gaming at a new location.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of

charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. Any effort or attempt to disguise any other type of compensation shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company***,*** ***service company,*** or consultant in managing or conducting ***any aspect of*** charitable gaming.

(6) A licensed charitable organization shall not purchase ***or lease*** charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number.

Section 8. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) ***in fair market***[~~cash~~] value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(c) Charity game tickets may be sold, with prior approval of the division:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization ***at any off-site location***; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(d) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the division, only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The division shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in ***seal card*** games[~~ using seal cards~~]. Cumulative or carryover prizes in ***seal card*** games[~~ utilizing seal cards~~] shall not exceed two thousand four hundred dollars ($2,400). Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.[~~ If seal cards are used,~~] Any unclaimed money or prize shall return to the charitable organization. No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the division. No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win. All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle. Raffle tickets shall have a unique identifier for the ticket holder. Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket. All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) No licensed charitable organization shall conduct a charity fundraising event ***or a***[~~ in which~~] special limited ***charity fundraising event***[~~charitable games are conducted,~~] unless they have a[~~ special limited~~] license ***for the respective event*** issued by the division. ***No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100).*** Except for state, county,[~~ and~~] city fairs, ***and***[~~ a~~] special limited ***charity fundraising events, a charity fundraising event***[~~charitable games~~] license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall

not be eligible for more than four (4) total ***charity fundraising event***[~~special limited charitable game~~] licenses per year***, including one (1) special limited charity fundraising event license***. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The division shall have broad authority to regulate the conduct of[~~ gaming authorized by a~~] special limited ***charity fundraising events in accordance with the provisions of Section 9 of this Act***[~~charitable games license issued under this subsection~~].

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

SECTION 9. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) A licensed charitable organization shall be limited to one (1) special limited charity fundraising event license per year, and a special limited charity fundraising event shall be limited to one (1) session not to exceed five (5) hours. A special limited charity fundraising event shall be conducted only between the hours of 12 noon and 1 a.m.

(2) A special limited charity fundraising event may be held:

- ***(a) On or in the premises of a licensed charitable organization;***
- ***(b) In a licensed charitable gaming facility, subject to restrictions contained in subsection (7) of Section 11 of this Act; or***
- ***(c) At an unlicensed facility under the following conditions:***
  - ***1. An unlicensed facility shall host no more than one (1) special limited charity fundraising event per year;***
  - ***2. The facility shall be closed to the general public during the conduct of a special limited charity fundraising event or the event shall be held in a separate room or area not accessible to the general public;***
  - ***3. Equipment used in the conduct of a special limited charity fundraising event shall be removed from the premises within two (2) working days after the event; and***
  - ***4. The unlicensed facility shall be subject to requirements stipulated in subsection (3) of Section 11 of this Act.***

(3) No cash shall be used in playing special limited charity games at a special limited charity fundraising event. Games shall be played with chips, scrip, or imitation money which shall be purchased only through a central bank or cashier under the authority of the chairperson designated by the licensed charitable organization conducting the special limited charity fundraising event. No chips, scrip, or imitation money shall be sold at a gaming table or by a dealer.

(4) Chips, scrip, or imitation money shall be redeemed for noncash prizes only. Prizes to be offered and their fair market values shall be displayed or listed in a conspicuous location within the gaming area. Prizes shall be redeemed directly or through an auction process within twenty-four (24) hours after the conclusion of the event.

Section 10. KRS 238.550 is amended to read as follows:

(1) All ***adjusted*** gross receipts from charitable gaming shall be handled only by ***chairpersons***[~~bona fide volunteers~~], officers, or employees of the licensed charitable organization. All adjusted gross receipts shall be deposited ***within two (2) business days*** into a checking account devoted exclusively to charitable gaming. ***All payments for charitable gaming expenses, prizes purchased, and any charitable donations from charitable gaming receipts shall be made from this checking account and any payments or donations***[~~Payment for legitimate expenses~~] shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The division may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.

(2) Accurate records and books shall be maintained by each licensed charitable organization for a period of three (3) years. Division staff shall have access to these records at reasonable times. All licensed charitable organizations shall be required to submit reports to the division at least quarterly. These reports shall include, but shall not be limited to, the following information:

- (a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;
- (b) The amounts or values of all prizes paid out during the reporting period***, including a listing of all prizes donated, the names of donors, and the fair market value of the donated prizes***;
- (c) The names and addresses of all persons who are winners of prizes of six hundred dollars ($600) or more;
- (d) All expenses paid and the names and addresses of all persons to whom expenses were paid;
- (e) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and

(f) Any other information the division deems appropriate.

(3) No licensed charitable organization shall incur expenses, except as provided in this ***chapter***[~~subsection~~]. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following expenses:

(a) Charitable gaming supplies and equipment;

(b) Rent;

(c) Utilities;

(d) Insurance;

(e) Advertising;

(f) Janitorial services;

(g) Bookkeeping and accounting services;

(h) Security services;

(i) Membership dues for its participation in any charitable gaming trade organization; and

(j) Any other expenses the division may determine by administrative regulation to be legitimate.

(4) At least ***twenty-five percent (25%)***[~~forty percent (40%)~~] of the adjusted gross receipts resulting from the conduct of charitable gaming during each ***quarter***[~~two (2) consecutive calendar quarters~~] shall be retained by the charitable organization and used exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status or consistent with its status as a common school, as an institution of higher education, or as a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.

(5) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke or deny its license for failure to meet the forty percent (40%) retention threshold prior to the effective date of this Act may petition the division for reconsideration of its action or proposed action. Upon petition for reconsideration, the division shall apply the threshold contained in subsection (4) of this section and shall adjust the license status of the petitioner accordingly.

Section 11. KRS 238.555 is amended to read as follows:

(1) No person shall operate a charitable gaming facility unless the person is licensed under the provisions of this chapter. The division shall charge a license fee not to exceed two thousand five hundred dollars ($2,500). ***Specific license fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulation and based on the number of sessions which the facility holds per week or other applicable factors or combination of factors.*** Charitable gaming may be conducted in a charitable gaming facility only by a licensed charitable organization in accordance with the provisions of this chapter.

(2) In the application process, an applicant for a charitable gaming facility license shall submit the following information:

(a) The address of the facility;

(b) A description of the facility to include square footage of the gaming area, capacity levels, and available parking;

(c) The names, addresses, dates of birth, and Social Security numbers of all individuals employed by or contracted with the applicant to manage the facility or provide other authorized services;

(d) The name, address, date of birth, and Social Security number of any individual who has a ten percent (10%) or greater financial interest in the facility;

(e) A copy of the lease agreement used by the applicant; and

(f) Any other information the division deems appropriate.

(3) No ***owner,*** officer, employee, or contractee of a licensed charitable gaming facility ***or an affiliate, or any member of the immediate family of any officer, employee, or contractee of a licensed charitable gaming facility or an affiliate*** shall, concerning a lessee:

(a) Manage or otherwise be involved in the conduct of charitable gaming;

(b) Provide bookkeeping or other accounting services related to the conduct of charitable gaming;

(c) Handle any moneys generated in the conduct of charitable gaming;

(d) Advise a licensed charitable organization on the expenditure of net receipts;

(e) Provide transportation services in any manner to patrons of a charitable gaming activity;

(f) Provide advertisement or marketing services in any manner to a licensed charitable organization;[~~ or~~]

(g) Provide***, coordinate, or solicit the services of*** personnel or volunteers in any manner***;***

(h) Influence or require a licensed charitable organization to use a certain distributor or any particular gaming supplies; or

(i) Donate or give any prize to be awarded in the conduct of charitable gaming.

(4) A licensed charitable gaming facility shall execute a lease agreement with each licensed charitable organization that desires to conduct charitable gaming at the facility. ***The licensed charitable gaming facility shall agree in the lease to provide gaming space, utilities, insurance for the premises, parking, tables and chairs and other nongaming equipment necessary for the conduct of charitable gaming, adequate storage space, security, and janitorial services. The costs of the goods and services provided shall be itemized in the lease. A licensed charitable organization may elect to provide for itself any of the goods and services that a charitable gaming facility is required to provide under this subsection, provided these arrangements are clearly noted in the lease agreement, and provided the total compensation to be paid the charitable gaming facility is reduced commensurate with the cost of the goods and services as itemized in the lease***[~~The lease shall specifically state the amount of rent to be charged and the goods and services to be provided, including concessions, if applicable~~]. The amount of rent***, goods, and services*** charged shall be reasonable and shall be based on prevailing market values in the general locality for the goods and services to be provided. Rent shall not be based in whole or in part, on a percentage of gross receipts or net proceeds derived from the conduct of charitable gaming or by reference to the number of people in attendance. The division by administrative regulation may establish standards for the determination of prevailing market values. A copy of each signed lease agreement shall be filed with the division. The provisions of this subsection shall apply to any lease agreement for a facility where charitable gaming is to be conducted, whether or not it is with a licensed charitable gaming facility.

(5) The number of bingo sessions conducted at a charitable gaming facility shall be limited to the following:

(a) No more than eighteen (18) sessions per week if the charitable gaming facility is located in a city of the first class, in a city of the second class, in an urban-county or charter county government, or in a county containing a city of the first class or second class;

(b) No more than eight (8) sessions per week if the charitable gaming facility is located in a city of the third class, fourth class, fifth class, or sixth class, or in a county that does not contain a city of the first class or second class.

(6) A licensed charitable gaming facility shall report at least quarterly to the division and shall provide any information concerning its operation that the division may require.

(7) A charity fundraising event at which special limited charitable games are played may be conducted at a licensed charitable gaming facility, but no licensed charitable gaming facility shall be permitted to hold more than one (1) such event per week or more than seven (7) per year.

(8) A licensed charitable gaming facility shall conspicuously display a sign bearing the name and the license ***number*** of the charitable organization that is conducting charitable gaming activities in the facility.

(9) The license to operate the charitable gaming facility shall be prominently displayed on or in the premises where charitable gaming activity is being conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the division, law enforcement officials, and other interested officials.

SECTION 12. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

All peace officers, on being informed or having reason to believe that charitable gaming not authorized under this chapter is taking place or is about to take place, shall suppress and prevent it. For this purpose, any peace officer may enter any place where any unlicensed charitable gaming is being conducted or about to be conducted and may arrest without a warrant any person who does not submit satisfactory proof that he or she possesses the necessary license required by this chapter.

Section 13. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of ***four-tenths***[~~one half~~] of one percent ***(0.4%)***[~~(0.5%)~~] of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the division all moneys due on a quarterly basis.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Justice Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the division shall be deposited in this account. Moneys in this account shall be expended by the division only in the administration and enforcement of provisions of this chapter. No later than July of each odd-numbered year, the division shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of one-half of one percent (0.5%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable

gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

(a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the division.

(b) The division may require a bond from distributors in accordance with the administrative regulations promulgated by the division.

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

Section 14. Whereas the conduct of certain types of charity fundraising events at unlicensed facilities has created regulatory and law enforcement problems which need to be addressed in an expedient manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 395, AN ACT relating to noncontiguous race track facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;

(2) "Commission" means the Kentucky Racing Commission;

(3) "Commissioner" means a commissioner of the Kentucky Racing Commission;

(4) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;

(5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;

(7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Racing Commission, and may include thoroughbred and harness racing;

(8) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(9) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(10) "Track" means any association duly licensed by the Kentucky Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned or purchased by a track within the same ***geographic area within a twenty-five (25) mile radius of a track***[~~county~~] but not contiguous to track premises, upon commission approval;

(11) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;

(12) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(13) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(14) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(15) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track which submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility which meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year; and

(17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track.

The Committee Substitute to **HB 395** is as follows:

AN ACT relating to noncontiguous race track facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;

(2) "Commission" means the Kentucky Racing Commission;

(3) "Commissioner" means a commissioner of the Kentucky Racing Commission;

(4) "Thoroughbred race or thoroughbred racing" means a form of horse racing in which each horse participating in the race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;

(5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;

(7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Racing Commission, and may include thoroughbred and harness racing;

(8) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(9) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(10) "Track" means any association duly licensed by the Kentucky Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned***, leased,*** or purchased by a track within the same ***geographic area within a fifty (50) mile radius of a track***[~~county~~] but not contiguous to track premises, upon commission approval***, and provided the noncontiguous property is not within a seventy-five (75) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility***;

(11) "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;

(12) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(13) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(14) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(15) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track which submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility which meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year; and

(17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track.

Calendar

HB 159, HB 160, HB 161, HB 388, HB 389, HB 234, HB 245, HB 284, HB 287, HB 304, HB 382, HB 4, and **HB 171** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Floor Amendments

Floor Amendment No. 2 to **HB 305**, by Representative Nunn:

On page 1, line 13, before the word "For" by inserting the words: "***Notwithstanding the provisions of subsection (1) of this section,***"; and

On page 1, line 15, after the word "minimum" by inserting the following: "***not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203.***"; and

On page 1, line 15, by placing opening brackets before and striking through the words "fifty percent (50%) of the wage prescribed in this"; and

On page 1, line 16, by placing a closing bracket after and striking through the words "section if he can"; and

On page 1, line 16, before the word "establish" by inserting the words: "***The employer shall***"; and

On page 1, line 18, by placing opening and closing brackets around and striking through the words "this section"; and

On page 1, line 18, before the word "was" by inserting the words "***29 U.S.C. sec. 203***"; and

On page 1, line 20, by placing opening and closing brackets around and striking through the words "this section"; and

On page 1, line 20, before the period "(.)" by inserting the words: "***29 U.S.C. sec. 203***".

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 64** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:40 p.m.) **HB 64** delivered to the Senate and signed by the President. Delivered to the Governor on January 28, 1998 at 2:55 p.m.

Representative Coleman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Coleman moved the adoption of the following **Legislative Citation No. 42**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby salutes Alvis Johnson for the extraordinary contributions he has made to the youth of his community as Head Coach of both the track and football teams and also as Athletic Director at Harrodsburg High School. Honored in considerable and numerous ways over the course of his 24-year coaching career, this outstanding citizen of Kentucky counts among the most recent of his many accolades the 1994 National Football Hall of Fame Distinguished Service Award, the 1994 Kentucky Football Coach of the Year, the 1994 Kentucky Track Coach of the Year and the 1993 Kentucky Athletic Directors Distinguished Service Award. A 1992 nominee for National Track Coach of the Year, Alvis Johnson has made extraordinary strides in advancing his teams and individual athletes through competition, coaching 40 individual track champions, four track All-Americans and winning three state track titles. In the sport of football, his teams have captured numerous district and regional crowns. Through his absolute commitment to the athletic community, he has accomplished far more than most coaches even imagine. The members of this distinguished body are pleased to join Representative Jack Coleman in extending sincere gratitude to Alvis Johnson for his many contributions to the community of Harrodsburg and to this Commonwealth and in applauding his well-deserved success. **Legislative Citation No. 42** was adopted without objection. (See January 28, 1998 roll call to co-sponsor **Legislative Citation No. 42** - Appendix)

Representative Coleman moved the adoption of the following **Legislative Citation No. 41**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends sincere congratulations to Dennis Johnson upon being recognized by his hometown of Harrodsburg, Kentucky, for his exceptional achievements as a player for the Harrodsburg High School Pioneers Football Team. Signs will be placed at the four entrances into the city limits announcing the town of Harrodsburg as the "Home of Dennis Johnson, Kentucky's Mr. Football 1997." This extraordinary young athlete, who has been honored as a Player of the Year by such publications as Sports Illustrated and USA Today and has won such awards as the World Famous Prep Report Player of the Year and the Gatorade Circle of Champions Regional Player of the Year, has demonstrated such talent and dedication by his accomplishments that he is praised and commended for his laudable efforts. The members of the House of Representatives of the Commonwealth of Kentucky are pleased to join with Representative Jack Coleman in applauding Dennis Johnson for the national acclaim he has brought to his community and to this Commonwealth and in extending to him sincere best wishes for continued academic and athletic victories. **Legislative Citation No. 41** was adopted without objection. (See January 28, 1998 roll call to co-sponsor **Legislative Citation No. 41** - Appendix)

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 197, HB 259, HB 31, HB 37, HB 212, HCR 14, HB 171, HB 245, HB 287, HB 304**, and **HB 388** have been posted for passage in the Orders of the Day for January 29, 1998.

The Committee on Rules reported that the following Resolution has been recommitted:

Appropriations and Revenue: **HCR 40**

Orders of the Day

HB 231 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 231** be passed.

On the roll call the vote was: Yeas 97, Nays 0 (See January 28 , 1998 roll call on **HB 231** - Appendix.) **HB 231** was passed and the title agreed to. Representative A. Arnold moved that the vote by which **HB 231** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 174 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 174** be passed.

On the roll call the vote was: Yeas 93, Nays 2 (See January 28 , 1998 roll call on **HB 174** - Appendix.) **HB 174** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 174** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 173, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of Floor Amendment No. 1 to **HB 173**. Agreed.

Representative Treesh moved the adoption of Floor Amendment No. 2 to **HB 173**. Agreed.

Representative Ford moved the adoption of Floor Amendment No. 4 to **HB 173**. Rejected.

Representative Geveden moved that **HB 173**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 24 (See January 28, 1998 roll call on **HB 173** - Appendix.) **HB 173**, as amended, was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 173**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of the Committee Substitute to **HB 1**. Agreed.

Representative R. Adams moved that **HB 1**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 2 (See January 28, 1998 roll call on **HB 1** - Appendix.) **HB 1**, by way of Committee Substitute, was passed and the title agreed to. Representative R. Adams moved that the vote by which **HB 1**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 265 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 265** be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See January 28 , 1998 roll call on **HB 265** - Appendix.) **HB 265** was passed and the title agreed to. Representative Collins moved that the vote by which **HB 265** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 420** and **HB 421** be reassigned to the Committee on Cities; **HB 106** be reassigned to the Committee on Tourism Development and Energy; and **HB 312** be reassigned to the Committee on Judiciary. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 439, by Representatives Johns, Clarke, A. Arnold, Coleman, Lovell, Stein and Burch: AN ACT relating to administrative authority.

HB 440, by Representative Stumbo: AN ACT relating to reorganization.

HB 441, by Representatives Colter and Curd: AN ACT relating to education.

HB 442, by Representatives A. Arnold and D. Graham: AN ACT relating to nepotism.

HB 443, by Representatives Kerr, Murgatroyd, Walton, Reinhardt, and Marcotte : AN ACT relating to a consumer's right to choose an electric energy supplier.

HB 444, by Representatives Stumbo and Bowling: AN ACT relating to aviation and declaring an emergency.

HB 445, by Representative Damron: AN ACT relating to capital projects.

HJR 61, by Representative Stumbo: A JOINT RESOLUTION directing the Transportation Cabinet to name the Morganfield Bypass as the "Sam McElroy Expressway" and to erect appropriate highway signs.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 414, HB 338**

Health and Welfare: **HB 128**

Cities: **HB 421**

Motions, Petitions and Communications (Continued)

Representative Vincent moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Vincent moved the adoption of the following **Legislative Citation No. 44**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day by paying tribute to Octavia Thomas. A lifelong resident of the Commonwealth of Kentucky, this extraordinary lady has created a sterling example of Christian generosity and spirit which will long be remembered and cherished by those whose fortune it has been to know her. Octavia Thomas has lived a full and exemplary life for ninety-one years and is honored this day for the kindness of her heart, the strength of her spirit and the breadth of her humanity. The members of this distinguished body, along with Representative John Vincent, do hereby recognize her on this day with gratitude for her tender and remarkable presence and extend to her our very best wishes. **Legislative Citation No. 44** was adopted without objection.

Representative Vincent moved the adoption of the following **Legislative Citation No. 45**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in honor of Paul F. Purvis a most respected resident of Boyd County, Kentucky, who has served his community and this Commonwealth with diligence and honor for many years of his life. Former Boyd County Commissioner and Judge Executive, this highly regarded citizen has proven himself an exemplary leader by the phenomenal example of his honesty and integrity. The members of the House of Representatives of the Commonwealth of Kentucky join this day with Representative John Vincent by paying tribute to Paul F. Purvis and in extending to him our very best wishes. **Legislative Citation No. 45** was adopted without objection.

Representative Alexander moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Alexander moved the adoption of the following **Legislative Citation No. 43**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes Dr. and Mrs. Gil Daley distinguished guests of Representative Scott Alexander. Their keen interest in viewing the legislative process in motion is commendable and the members of this honorable body are pleased to join Representative Alexander in expressing our deepest appreciation for their attendance and in hoping that Gil and Carolyn will find their visit to this Chamber richly rewarding. **Legislative Citation No. 43** was adopted without objection.

Representative Gooch moved that **HB 411** be withdrawn. Agreed.

Representative Lovell moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lovell moved that he be recorded as voting "yea" on **HB 1**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended: **HB 54**, Representative Stine; **HB 70, HB 85, HB 398**, Representative Cave; **HB 85**, Representative Brandstetter; **HB 106**, Representatives Allen, Brown, Gooch, Bratcher; **HB 168**, Representative Stine; **HB 289**, Representatives Simpson, Bowling, Alexander, Wilkey, Cave, Thomas, G. Graham, Scott, Newsome, Cox, Hogancamp, Stewart, Gray, Pope, Yonts, Deskins, Ballard, Napier, Vincent, Bratcher; **HB 311**, Representative Gooch; **HB 318**, Representatives Hogancamp, Walton, Sims; **HB 397**, Representative Callahan; **HB 408**, Representatives Heleringer, Crimm; **HB 424**, Representative Horlander; **HB 437**, Representative Barrows; **HCR 59**, Representatives Crimm, Maricle.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Health, 15 minutes upon adjournment, January 28, 1998.

Budget Review Subcommittee on economic Development, upon adjournment, Room 125, January 29, 1998.

Labor and Industry, Room 125, 8:30 a.m., January 29, 1998.

Banking and Insurance, Room 149, 9:00 a.m., January 29, 1998.

Budget Review Subcommittee on General Government, Room 125, January 29, 1998, upon adjournment.

Education, Room 131, January 28, 1998.

The following meetings were cancelled:

Transportation, January 29, 1998.

Agriculture and Small Business, January 29, 1998.

Cities, January 29, 1998.

Judiciary, January 29, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., January 29, 1998.

On the roll call the vote was **Yeas 80**--J. Adams, R. Adams, Adkins, Alexander, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Bratcher, Brown, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Murgatroyd, Napier, Nesler, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Wilkey, Worthington, Yonts, Zimmerman. **Nays 6**--Allen, Crall, Hoover, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

THURSDAY, JANUARY 29, 1998

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jay Ayers, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Clarke, Crenshaw, Deskins, and Hatcher.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 28, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 13, SB 17, SB 28,** and **SB 172**. (Time: 10:05 a.m.)

Introduction of Bills

HB 446, by Representative Murgatroyd: AN ACT relating to local school districts.

HB 447, by Representative Lee: AN ACT relating to the education of state agency children.

HB 448, by Representative Gooch: AN ACT relating to assessment companies.

HB 449, by Representative Lee: AN ACT relating to children in placement.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 433**

Banking and Insurance: **HJR 60**

Counties and Special Districts: **SB 66, SB 78**

Education: **HB 435, HB 436, HB 441, HB 442**

Elections and Constitutional Amendments: **SB 67**

Health and Welfare: **HB 434**

Licensing and Occupations: **SB 22**

Natural Resources and Environment: **HB 437**

State Government: **HB 438, HB 439, HB 440, HB 445, HCR 59, SB 6, SB 54, SB 139, SB 148, SB 154**

Tourism and Energy: **HB 443**

Transportation: **HB 444, HJR 61**

Report of Committees

The Committee on Labor and Industry reported **HB 306**, with Committee Amendment No. 1 Title attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 306, AN ACT relating to the duties of the commissioner of labor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.050 is amended to read as follows:

The commissioner in person or by representative shall:

(1) Investigate and ascertain the wages of all employees employed in this state.

(2) Enter the place of business or employment of any employer of employees to examine and inspect all books, registers, payrolls, and other records that have a bearing upon the question of wages of employees and to ascertain whether the orders of the commissioner are complied with; and

(3) Require from the employer a full and correct statement in writing when the commissioner or his representative considers it necessary, of the wages paid to all employees in his employment.

(4) Upon complaint, prosecute any violation of any of the provisions of any law which it is his duty to administer or enforce. ***The commissioner may enter into reciprocal agreements with the corresponding labor agency or official of any other state to collect in the other state claims assigned to the commissioner. To the extent allowed by a reciprocal agreement, the commissioner may maintain actions in the courts of another state to collect claims and judgments for wages and assign claims and judgments to the agency or official of another state for collection. If a reciprocal agreement extends a like comity to cases arising in the Commonwealth, the commissioner may maintain actions in the courts of the Commonwealth to collect claims and judgments for wages arising in the other state in the same manner and to the same extent that actions are authorized when arising in the Commonwealth.***

The Committee Amendment No. 1 Title to **HB 306** is as follows:

Amend title to read: AN ACT relating to the commissioner of workplace standards.

The Committee on Labor and Industry reported **SB 26** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 26, AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified ***service***~~[services]~~ because of his ***or her*** political ***activities*** or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No ***person shall directly or indirectly threaten a classified employee with the loss of employment, denial of promotion, or with any other penalty for supporting or not supporting any political candidate or party, nor shall any person engage in a reprisal against the employee by causing the employee's dismissal, failure to be promoted, or other penalty***~~[employee in the classified service or member of the board or its executive director or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service]~~. No ***candidate for public office, committee for a candidate, state officer, or state employee***~~[person]~~ shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service ***on behalf of a candidate for public office or a political party. The employee may make a voluntary political contribution of money or service***.

(4) ***No person covered by the provisions of KRS Chapter 18A shall engage in any political activity during that person's normal state work hours.***

(5) No person shall levy an assessment against a classified employee before, during, or after any political campaign. No employee in the classified service or member of the board or its executive director shall be~~[a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or]~~ a candidate for nomination or election to any paid public office, or shall take part in the management~~[or affairs]~~ of any political party or ***of***~~[in]~~ any political campaign~~[, except to exercise his right as a citizen privately to express his opinion and to cast his vote]~~. Officers or employees of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

Section 2. KRS 151B.090 is amended to read as follows:

(1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations, ethnic origin, sex, disability, or age.

(2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.

(3) No ***person shall directly or indirectly threaten a classified employee with the loss of employment, denial of promotion, or with any other penalty for supporting or not supporting any political candidate or party, nor shall any person engage in a reprisal against the employee by causing the employee's dismissal, failure to be promoted, or other penalty***[~~certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service~~]. No ***candidate for public office, committee for a candidate, state officer, or state employee***[~~person~~] shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee ***on behalf of a candidate for public office or a political party. The employee may make a voluntary political contribution of money or service***.

(4) ***No person covered by the provisions of KRS 151B shall engage in any political activity during that person's normal state work hours.***

(5) No certified or equivalent employee shall be[~~ a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or~~] a candidate for nomination or election to any paid public office, or shall take part in the management[~~ or affairs~~] of any political party or ***of***[~~in~~] any political campaign[~~, except to exercise the right as a citizen privately to express an opinion and to cast a vote~~]. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

Section 3. KRS 18A.990 is amended to read as follows:

(1) Any person who willfully violates any provision of KRS 18A.005 to 18A.200***, KRS 151B.080,*** or of the ***administrative regulations promulgated thereunder***[~~rules~~] shall be guilty of a ***Class B*** misdemeanor[~~, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail~~].

(2) Any person who is convicted of a misdemeanor under KRS 18A.005 to 18A.200 shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he is an officer or employee of the Commonwealth, shall forfeit his ***or her*** office or position.

(3) Any officer or employee of the classified service who willfully violates any of the provisions of KRS 18A.140 shall forfeit his ***or her*** office or position, and for one (1) year shall be ineligible for any office or position in the Commonwealth's service. Violation of KRS 18A.140 shall constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months in jail.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 229, HB 246**

Appropriations and Revenue: **HB 175, HB 141**

Calendar

HB 15, **HB 263**, and **HB 395** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 83, **HB 233**, and **HB 250** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative J. Arnold moved that the rules be suspended to grant floor privileges to former Representative Joe McBride. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 4**, by Representative Yonts:

On page 9, line 22 after "(2)" by adding "***After July 15, 2000, any person who violates Sections 3 or 4 of this Act shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100). A person who violates Sections 3 or 4 of this Act shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars $300) for the second offense, and not less than three hundred dollars ($300) nor more than five hundred dollars($500) for the third or any subsequent offense.***

(3)"; and

on line 25 by deleting "***(3)***" and replacing it with "***(4)***"

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 30, HB 305, HB 234, HB 382, HB 389**, and **HB 263** have been posted for passage in the Orders of the Day for February 2, 1998.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 161**

Orders of the Day

HB 31, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 31**. Agreed.

Representative Nunn moved that **HB 31**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 3 (See January 29, 1998 roll call on **HB 31** - Appendix.) **HB 31**, by way of Committee Substitute, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 31**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 14 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HCR 14** be adopted.

On the roll call the vote was: Yeas 93, Nays 0 (See January 29, 1998 roll call on **HCR 14** - Appendix.) **HCR 14** was adopted. Representative Stacy moved that the vote by which **HCR 14** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 171, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 171**. Agreed.

Representative Brown moved that **HB 171**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See January 29, 1998 roll call on **HB 171** - Appendix.) **HB 171**, by way of Committee Substitute, was passed and the title agreed to. Representative Brown moved that the vote by which **HB 171**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 245 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 245** be passed.

On the roll call the vote was: Yeas 92, Nays 0 (See January 29 , 1998 roll call on **HB 245** - Appendix.) **HB 245** was passed and the title agreed to. Representative Adkins moved that the vote by which **HB 245** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 287 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved that **HB 287** be passed.

On the roll call the vote was: Yeas 92, Nays 1 (See January 29 , 1998 roll call on **HB 287** - Appendix.) **HB 287** was passed and the title agreed to. Representative J. Arnold moved that the vote by which **HB 287** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 107** be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills

HB 450, by Representative Ford: AN ACT relating to traffic regulations.

HB 451, by Representative Stumbo: AN ACT relating to reorganization.

HB 452, by Representatives Bowling and Stewart: AN ACT relating to occupations and professions.

HB 453, by Representatives Geveden and Nesler: AN ACT relating to emergency management.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 129, HB 333**

Tourism Development and Energy: **HB 341, HB 345, HB 106**

Counties and Special Districts: **HB 432**

Education: **HB 92, HB 113, HB 193, HB 330, HB 378, HCR 15, HCR 7, HCR 11, HCR 12, HCR 19**

Agriculture and Small Business: **HB 346, HB 329, HB 407, SCR 3**

State Government: **HB 309, HB 336, HB 340, HB 343, HB 356, HB 357, HB 358, HB 364, HB 365, HB 383, HB 391, HB 392, HB 393, HB 422, SB 1, HR 44**

Report of Committees (Continued)

The Committee on Banking and Insurance reported **HB 226,** with Committee Substitute and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 226, AN ACT relating to check cashing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 368.010 is amended to read as follows:

As used in KRS 368.010 to 368.120 and 368.990, unless the context requires otherwise:

(1) "Check" means any check, draft, money order, personal money order, travelers' check, or other ***demand*** instrument for the transmission or payment of money.

(2) "Commissioner" means the commissioner of the Department of Financial Institutions, or his duly designated representative.

(3) "Consideration" includes any premium charged for the sale of goods or services in excess of the cash price of the goods or services.

(4) ***"Deferred deposit transaction" means, for consideration, accepting a check and holding the check for a period of time prior to deposit or presentment in accordance to an agreement with or any representation made to the maker of the check, whether express or implied.***

(5) "Deferred deposit service business" means a person who engages in deferred deposit transactions.

(6) "Department" means the Department of Financial Institutions.

(7)[~~(5)~~] "Licensee" means a person duly licensed by the commissioner ***under***[~~pursuant to~~] KRS 368.010 to 368.120.

(8)[~~(6)~~] "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity, but shall not include the United States government or the government of this Commonwealth.

Section 2. KRS 368.020 is amended to read as follows:

Except as provided in KRS 368.030, no person shall engage in the business of cashing checks ***or accepting deferred deposit transactions*** for a fee or other consideration without having first obtained a license. ***A separate license shall be required for each location from which the business of cashing checks or accepting deferred deposit transactions is conducted.*** Any person engaged in that business on the effective date of this section may continue to engage in the business without a license until the commissioner shall have acted upon his application for a license if the application is filed within sixty (60) days after July 14, 1992.

Section 3. KRS 368.030 is amended to read as follows:

The provisions of KRS 368.010 to 368.120 shall not apply to:

(1) Any bank, trust company, savings and loan association, savings bank, credit union, consumer loan company, ***or*** industrial loan corporation[~~, mortgage loan company, mortgage loan broker, or pawn broker~~] which is chartered, licensed, or organized under the laws of this Commonwealth or under federal law and authorized to do business in this Commonwealth;

(2) Any person who cashes checks without receiving, directly or indirectly, any consideration or fee therefor; and

(3) Any person principally engaged in the retail sale of goods or services who, either as an incident to or independently of a retail sale, may from time to time cash checks for a fee or other consideration.

Section 4. KRS 368.060 is amended to read as follows:

Each application for a license shall be accompanied by:

(1) An investigation fee of five hundred dollars ($500) for Kentucky residents and five hundred dollars ($500) for nonresidents of Kentucky ***for each location*** which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof;

(2) Audited financial statements prescribed by the commissioner; and

(3) Evidence that the applicant has complied or will comply with all workers', and unemployment compensation laws of Kentucky.

Section 5. KRS 368.070 is amended to read as follows:

(1) Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in KRS 368.060, the department shall investigate to ascertain whether the qualifications prescribed by KRS 368.040 have been satisfied. If the commissioner finds that the qualifications have been satisfied, and if he approves the documents, he shall issue to the applicant a license to engage in the business of cashing checks ***and deferred deposit transactions*** in this Commonwealth.

(2) The license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

(3) A license issued ***under***[~~pursuant to~~] this section shall remain in force and effect through the remainder of the fiscal year ended June 30 following its date of issuance, unless earlier surrendered, suspended, or revoked ***under***[~~pursuant to~~] KRS 368.010 to 368.120.

(4) A licensee shall notify the department fifteen (15) business days before any change in the licensee's business location or name.

Section 6. KRS 368.080 is amended to read as follows:

Each ***license***[~~licensee~~] may be renewed for the ensuing twelve (12) months period upon the payment to the department annually on or before July 1 of each year a ***license***[~~licensee~~] fee of five hundred dollars ($500) ***for the first location and five hundred dollars ($500) for each additional location***.

Section 7. KRS 368.090 is amended to read as follows:

(1) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of KRS 368.010 to 368.120.

(2) To assure compliance with the provisions of KRS 368.010 to 368.120, the department may examine the business, books, and records of any licensee, and each licensee shall pay an examination fee ***sufficient***[~~ as established by administrative regulations of the department~~] to cover the cost of the examination ***based upon fair compensation for time and actual expense***.

Section 8. KRS 368,100 is amended to read as follows:

(1) Each licensee shall keep and use in its business any books, accounts, and records the department may require to carry into effect the provisions of KRS 368.010 to 368.120 and the administrative regulations issued ***under those sections***[~~hereunder~~]. Every licensee shall preserve the books, accounts, and records for at least two (2) years.

(2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing the check, and the fee shall be deemed a service fee and not interest. ***A licensee shall not charge a service fee in excess of ten dollars ($10) on the first one hundred dollars ($100) on the face amount of the deferred deposit check. A licensee shall prorate any fee, on a deferred deposit check of one hundred dollars ($100) or less, based upon the maximum fee of ten dollars ($10).***

(3) Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

(4) No licensee shall cash a check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

(5) No licensee shall indicate through advertising, signs, billhead, or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.

(6) Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the department and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.

(7) No licensee shall alter or delete the date on any check accepted by the licensee.

(8) No licensee shall engage in unfair or deceptive acts, practices or advertising in the conduct of the licensed business.

(9) No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.

(10) A licensee shall not have more than one deferred deposit transaction from any one (1) customer at any one time, with a face value greater than two hundred fifty dollars ($250).

(11) Each licensee shall inquire of any person seeking to present a deferred deposit transaction, whether the person has any outstanding deferred deposit transactions from other licensees. If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any licensee and that the face value of the outstanding deferred deposit transaction issued by the customer does not equal or exceed two hundred fifty dollars ($250), a licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, does not exceed two hundred fifty dollars ($250). If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to any licensee or if the face value of the deferred deposit transaction issued by the customer equals or exceeds two hundred fifty dollars ($250), a licensee shall not accept another deferred deposit transaction from that customer until the customer represents to the licensee in writing that the customer qualifies to issue a new deferred deposit transaction under the requirements set forth in this section.

(12) A licensee shall not use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than are authorized in this section.

(13) No licensee shall agree to hold a deferred deposit transaction for more than thirty-one (31) days.

(14) Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee, and made available to the department upon request. The customer shall receive a copy of this agreement.

(15) A licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction

for a customer more than two (2) times in succession. The fee for a renewal, roll over, or consolidation shall be paid in cash or cash equivalent.

(16) No individual who enters into a deferred deposit transaction with a licensee shall be convicted under the provisions of KRS 514.040.

Section 9. KRS 368.110 is amended to read as follows:

(1) The commissioner may ***suspend or*** revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of KRS 368.010 to 368.120 or if the licensee:

(a)[~~(1)~~] Has committed any fraud, engaged in any dishonest activities, or made any misrepresentation;

(b)[~~(2)~~] Has violated any provisions of KRS 368.010 to 368.120 or any administrative regulation issued pursuant thereto or has violated any other law in the course of its or his dealings as a licensee;

(c)[~~(3)~~]Has made a false statement in the application for the license or failed to give a true reply to a question in the application; ***or***

(d)[~~(4)~~] Has demonstrated his or its ***incompetency***[~~competency~~] or untrustworthiness to act as a licensee.

(2) If the reason for revocation or suspension of a licensee's license at any one location is of general application to all locations operated by a licensee, the commissioner may revoke or suspend all licensees issued to a licensee.

Section 10. KRS 368.120 is amended to read as follows:

No license shall be denied***, suspended,*** or revoked unless the applicant or licensee is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.

SECTION 11. A NEW SECTION OF KRS 368.010 TO 368.120 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by the conduct of a licensee under KRS 368.010 to 368.120 in connection with the licensee's regulated activities may file a written complaint with the commissioner who may investigate the complaint.

(2) In the course of the investigation of the complaint, the commissioner may:

(a) Subpoena witnesses;

(b) Administer oaths;

(c) Examine any individual under oath; and

(d) Compel the production of records, books, papers, contracts or other documents relevant to the investigation.

(3) If any person fails to testify or to comply with a subpoena from the commissioner under this section, the commissioner may petition any court of competent jurisdiction for enforcement.

(4) The license of any licensee under KRS 368.010 to 368.120 who fails to comply with a subpoena of the commissioner may be suspended pending compliance with the subpoena.

(5) The commissioner shall have administrative power to investigate all complaints filed by any person if the complaints are not criminal in nature and if they relate to the check cashing or the deferred deposit service business.

SECTION 12. A NEW SECTION OF KRS 368.010 TO 368.120 IS CREATED TO READ AS FOLLOWS:

(1) Each licensee shall file an annual report with the commissioner by September 1 of each year, containing the following information:

(a) The names and addresses of each person owning a controlling interest in each license;

(b) The location of all places of business operated by the licensee and the nature of the business conducted at each location;

(c) The names and addresses of all affiliated entities regulated under KRS 368.010 to 368.120 and doing business in this state;

(d) Balance sheets, statement of income and expenses, and other statistical information as may be reasonably required by the commissioner, consistent with generally accepted accounting practices, for the purpose of determining the general results of operations under this chapter; and

(e) If the licensee is a corporation, the names and addressees of its principle officers and directors, or if the licensee is a partnership, the names and addresses of the partners, or if the licensee is a limited liability company, the names and addresses of the board of directors of the limited liability company.

(2) If the licensee holds two (2) or more licenses or is affiliated with other licensees, a composite report may be filed.

(3) All reports shall be filed in a form as may reasonably be required by the commissioner and shall be sworn to by a responsible officer of the licensee.

(4) The information submitted by licensees under this section shall be held in confidence by the department and the commissioner.

SECTION 13. A NEW SECTION OF KRS 368.010 TO 368.120 IS CREATED TO READ AS FOLLOWS:

(1) Each licensee who engages in deferred deposit transactions shall give the customer the disclosures required by the Consumer Credit Protection Act (15 U.S.C. sec. 1601). Proof of this disclosure shall be made available to the department upon request.

(2) Each licensee shall conspicuously display a schedule of all fees, charges, and penalties for all services provided by the licensee that are authorized by KRS 368.010 to 368.120. The notice shall be posted at the office and every branch office of the licensee.

(3) A licensee may charge, collect, and receive check collection charges made by a financial institution for each check returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges will be charged to the customer are set forth in the written disclosure.

(4) Any personal check accepted from a customer must be payable to the licensee.

(5) Before a licensee shall present for payment or deposit a check accepted by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

The Committee Substitute to **HB 226** is as follows:

AN ACT relating to check cashing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 368.010 is amended to read as follows:

As used in KRS 368.010 to 368.120 and 368.990, unless the context requires otherwise:

(1) "Check" means any check, draft, money order, personal money order, travelers' check, or other *demand* instrument for the transmission or payment of money.

(2) "Commissioner" means the commissioner of the Department of Financial Institutions, or his duly designated representative.

(3) "Consideration" includes any premium charged for the sale of goods or services in excess of the cash price of the goods or services.

(4) *"Deferred deposit transaction" means, for consideration, accepting a check and holding the check for a period of time prior to deposit or presentment in accordance to an agreement with or any representation made to the maker of the check, whether express or implied.*

(5) "Deferred deposit service business" means a person who engages in deferred deposit transactions.

(6) "Department" means the Department of Financial Institutions.

(7)[~~(5)~~] "Licensee" means a person duly licensed by the commissioner *under*[~~pursuant to~~] KRS 368.010 to 368.120.

(8)[~~(6)~~] "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity, but shall not include the United States government or the government of this Commonwealth.

Section 2. KRS 368.020 is amended to read as follows:

Except as provided in KRS 368.030, no person shall engage in the business of cashing checks *or accepting deferred deposit transactions* for a fee or other consideration without having first obtained a license. *A separate license shall be required for each location from which the business of cashing checks or accepting deferred deposit transactions is conducted.* Any person engaged in that business on the effective date of this section may continue to engage in the business without a license until the commissioner shall have acted upon his application for a license if the application is filed within sixty (60) days after July 14, 1992.

Section 3. KRS 368.030 is amended to read as follows:

The provisions of KRS 368.010 to 368.120 shall not apply to:

(1) Any bank, trust company, savings and loan association, savings bank, credit union, consumer loan company, *or* industrial loan corporation[~~, mortgage loan company, mortgage loan broker, or pawn broker~~] which is chartered, licensed, or organized under the laws of this Commonwealth or under federal law and authorized to do business in this Commonwealth;

(2) Any person who cashes checks without receiving, directly or indirectly, any consideration or fee therefor; and

(3) Any person principally engaged in the retail sale of goods or services who, either as an incident to or independently of a retail sale, may from time to time cash checks for a fee or other consideration.

Section 4. KRS 368.040 is amended to read as follows:

To qualify for a license, an applicant shall satisfy the following requirements:

(1) The applicant shall have a net worth of at least one hundred thousand dollars ($100,000), ***for each location,*** computed according to generally accepted accounting principles.

(2) The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall reasonably warrant the belief that the applicant's business will be conducted honestly, carefully, and efficiently. In determining whether this qualification has been met, the commissioner may review and approve:

(a) The business record and the capital adequacy of the applicant;

(b) The competence, experience, integrity, and financial ability of any person who:

1. Is a director, officer, supervisory employee, or five percent (5%) or more shareholder of the applicant; or

2. Owns or controls the applicant; and

(c) Any record, on the part of the applicant or any person referred to in subparagraph (b)1. and 2. of:

1. Any criminal activity;

2. Any fraud or other act of personal dishonesty;

3. Any act, omission, or practice which constitutes a breach of a fiduciary duty; or

4. Any suspension or removal, by any agency or department of the United States or any state, from participation in the conduct of any business.

Section 5. KRS 368.060 is amended to read as follows:

Each application for a license shall be accompanied by:

(1) An investigation fee of five hundred dollars ($500) for Kentucky residents and five hundred dollars ($500) for nonresidents of Kentucky ***for each location*** which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof;

(2) Audited financial statements prescribed by the commissioner; and

(3) Evidence that the applicant has complied or will comply with all workers', and unemployment compensation laws of Kentucky.

Section 6. KRS 368.070 is amended to read as follows:

(1) Upon the filing of an application in a form prescribed by the commissioner, accompanied by the fee and documents required in KRS 368.060, the department shall investigate to ascertain whether the qualifications prescribed by KRS 368.040 have been satisfied. If the commissioner finds that the qualifications have been satisfied, and if he approves the documents, he shall issue to the applicant a license to engage in the business of cashing checks ***or deferred deposit transactions*** in this Commonwealth.

(2) The license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

(3) A license issued ***under***[~~pursuant to~~] this section shall remain in force and effect through the remainder of the fiscal year ended June 30 following its date of issuance, unless earlier surrendered, suspended, or revoked ***under***[~~pursuant to~~] KRS 368.010 to 368.120.

(4) A licensee shall notify the department fifteen (15) business days before any change in the licensee's business location or name.

Section 7. KRS 368.080 is amended to read as follows:

Each ***license***[~~licensee~~] may be renewed for the ensuing twelve (12) months period upon the payment to the department annually on or before July 1 of each year a ***license***[~~licensee~~] fee of five hundred dollars ($500) ***for the first location and five hundred dollars ($500) for each additional location***.

Section 8. KRS 368.090 is amended to read as follows:

(1) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of KRS 368.010 to 368.120.

(2) To assure compliance with the provisions of KRS 368.010 to 368.120, the department may examine the business, books, and records of any licensee, and each licensee shall pay an examination fee ***sufficient***[~~ as established by administrative regulations of the department~~] to cover the cost of the examination ***based upon fair compensation for time and actual expense as established by administrative regulations of the department***.

Section 9. KRS 368.100 is amended to read as follows:

(1) Each licensee shall keep and use in its business any books, accounts, and records the department may require to carry into effect the provisions of KRS 368.010 to 368.120 and the administrative regulations issued ***under those sections***[~~hereunder~~]. Every licensee shall preserve the books, accounts, and records for at least two (2) years.

(2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing

the check, and the fee shall be deemed a service fee and not interest. ***A licensee shall not charge a service fee in excess of fifteen dollars ($15) per one hundred dollars ($100) on the face amount of the deferred deposit check. A licensee shall prorate any fee, based upon the maximum fee of fifteen dollars ($15). This service fee shall be for a period of fourteen (14) days.***

(3) Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

(4) No licensee shall cash a check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

(5) No licensee shall indicate through advertising, signs, billhead, or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.

(6) Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the department and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.

(7) No licensee shall alter or delete the date on any check accepted by the licensee.

(8) No licensee shall engage in unfair or deceptive acts, practices or advertising in the conduct of the licensed business.

(9) No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.

(10) A licensee shall not have more than one deferred deposit transaction from any one (1) customer at any one time, with a face value greater than five hundred dollars ($500).

(11) Each licensee shall inquire of any person seeking to present a deferred deposit transaction, whether the person has any outstanding deferred deposit transactions from any licensees. If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any licensee and that the face value of the outstanding deferred deposit transaction issued by the customer does not equal or exceed five hundred dollars ($500), a licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, does not exceed five hundred dollars ($500). If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to any licensee or if the face value of the deferred deposit transaction issued by the customer equals or exceeds five hundred dollars ($500), a licensee shall not accept another deferred deposit transaction from that customer until the customer represents to the licensee in writing that the customer qualifies to issue a new deferred deposit transaction under the requirements set forth in this section.

(12) A licensee shall not use any device or agreement, including agreements with affiliated licensees, with the intent to obtain greater charges than are authorized in this section.

(13) No licensee shall agree to hold a deferred deposit transaction for more than sixty (60) days.

(14) Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee, and made available to the department upon request. The customer shall receive a copy of this agreement.

(15) A licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction for a customer more than three (3) times in succession. Each roll over or renewal period shall not be less than the original period. The fee for a renewal, roll over, or consolidation shall be paid in cash or cash equivalent and shall be in an amount not to exceed the rate set forth in subsection (2) of this section.

(16) No individual who enters into a deferred deposit transaction with a licensee shall be convicted under the provisions of KRS 514.040.

Section 10. KRS 368.110 is amended to read as follows:

(1) The commissioner may ***suspend or*** revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of KRS 368.010 to 368.120 or if the licensee:

(a)[~~(1)~~] Has committed any fraud, engaged in any dishonest activities, or made any misrepresentation;

(b)[~~(2)~~] Has violated any provisions of KRS 368.010 to 368.120 or any administrative regulation issued pursuant thereto or has violated any other law in the course of its or his dealings as a licensee;

(c)[~~(3)~~]Has made a false statement in the application for the license or failed to give a true reply to a question in the application; *or*

(d)[~~(4)~~] Has demonstrated his or its *incompetency*[~~competency~~] or untrustworthiness to act as a licensee.

(2) If the reason for revocation or suspension of a licensee's license at any one location is of general application to all locations operated by a licensee, the commissioner may revoke or suspend all licenses issued to a licensee.

Section 11. KRS 368.120 is amended to read as follows:

No license shall be denied*, suspended,* or revoked unless the applicant or licensee is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS 368.010 TO 368.120 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by the conduct of a licensee under KRS 368.010 to 368.120 in connection with the licensee's regulated activities may file a written complaint with the commissioner who may investigate the complaint.

(2) In the course of the investigation initiated by a complaint or by the commissioner, the commissioner may:

(a) Subpoena witnesses;

(b) Administer oaths;

(c) Examine any individual under oath; and

(d) Compel the production of records, books, papers, contracts or other documents relevant to the investigation.

(3) If any person fails to testify or to comply with a subpoena from the commissioner under this section, the commissioner may petition any court of competent jurisdiction for enforcement.

(4) The license of any licensee under KRS 368.010 to 368.120 who fails to comply with a subpoena of the commissioner may be suspended pending compliance with the subpoena.

(5) The commissioner shall have administrative power to investigate all complaints filed by any person if the complaints are not criminal in nature and if they relate to the check cashing or the deferred deposit service business.

SECTION 13. A NEW SECTION OF KRS 368.010 TO 368.120 IS CREATED TO READ AS FOLLOWS:

(1) Each licensee shall file an annual report with the commissioner by September 1 of each year, containing the following information:

(a) The names and addresses of each person owning a controlling interest in each license;

(b) The location of all places of business operated by the licensee and the nature of the business conducted at each location;

(c) The names and addresses of all affiliated entities regulated under KRS 368.010 to 368.120 and doing business in this state;

(d) Balance sheets, statement of income and expenses, and other statistical information as may be reasonably required by the commissioner, consistent with generally accepted accounting practices, for the purpose of determining the general results of operations under this chapter; and

(e) If the licensee is a corporation, the names and addressees of its principle officers and directors, or if the licensee is a partnership, the names and addresses of the partners, or if the licensee is a limited liability company, the names and addresses of the board of directors of the limited liability company.

(2) If the licensee holds two (2) or more licenses or is affiliated with other licensees, a composite report may be filed.

(3) All reports shall be filed in a form as may reasonably be required by the commissioner and shall be sworn to by a responsible officer of the licensee.

(4) The information submitted by licensees under this section shall be held in confidence by the department and the commissioner.

SECTION 14. A NEW SECTION OF KRS 368.010 TO 368.120 IS CREATED TO READ AS FOLLOWS:

(1) Each licensee who engages in deferred deposit transactions shall give the customer the disclosures required by the Consumer Credit Protection Act (15 U.S.C. sec. 1601). Proof of this disclosure shall be made available to the department upon request.

(2) Each licensee shall conspicuously display a schedule of all fees, and charges for all services provided by the licensee that are authorized by KRS 368.010 to 368.120. The notice shall be posted at the office and every branch office of the licensee.

(3) A licensee may charge, collect, and receive check collection charges made by a financial institution for each check returned or dishonored for any reason, provided that the terms and conditions upon which check collection charges

will be charged to the customer are set forth in the written disclosure.

(4) Any personal check accepted from a customer must be payable to the licensee.

(5) Before a licensee shall present for payment or deposit a check accepted by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

The Committee Amendment No. 1 to **HB 226** is as follows:

On page 1, line 16 after "licensed" by inserting "***for one (1) or more locations***";

On page 2, line 4 after "14," by placing brackets before "1" and by placing brackets after "2" and by striking through "1992" and by inserting in lieu there of "***1998***";

On page 2, line 19 after "have" by inserting "***and shall maintain***";

On page 2, line 20 by deleting "***for each location,***"; and

On page 5, line 3 after "check" by inserting "***or entering into a deferred deposit transaction***".

The Committee Amendment No. 2 Title to **HB 226** is as follows:

"By amending the title to read as follows: AN ACT relating to check cashing and deferred deposit transactions."

Motions, Petitions, and Communications (Continued)

Representative Thomas moved the adoption of the following **Legislative Citation No. 48**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in memory of Edwin Burton Jenkins and extends sincerest expressions of sympathy to his beloved wife, Ivaree Decker Jenkins, his cherished daughter, Lee Ann Wright, and his precious grandchildren. This highly respected Warren County native, a graduate of Western Kentucky University and Bowling Green Business University, was a veteran of World War II, a former city treasurer of Bowling Green and the co-owner and president of Southern Furniture Company. The members of this honorable body join Speaker Jody Richards in reaching out to all the friends and family of Edwin Burton Jenkins during this sorrowful time, offering sincere condolences and adjourning this day in loving memory of this highly regarded citizen of the Commonwealth. **Legislative Citation No. 48** was adopted without objection.

Representative Yonts moved the adoption of the following **Legislative Citation No. 46**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby commends the students of Hughes-Kirk Elementary School for their keen interest in learning more of the legislative process demonstrated by their exemplary participation in a tour of the Capitol in Frankfort and their observance of a day's activities in the 1998 Kentucky General Assembly. The exceptional effort put forth by these outstanding young citizens is both laudable and praiseworthy and, therefore, the members of the House of Representatives of the Commonwealth of Kentucky are pleased to join with Representative Brent Yonts in welcoming the students of Hughes-Kirk Elementary School to the Capitol and in extending to them best wishes for success in all future endeavors. **Legislative Citation No. 46** was adopted without objection.

Representative R. Adams moved the adoption of the following **Legislative Citation No. 47**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the Owen County Adult Education Program for its outstanding contribution to the academic achievement and success of Owen County adult citizens who have chosen to complete their formal education. Inasmuch as this program provides opportunity and encouragement for the continuance of education and promotes the concept of lifelong learning, the members of this honorable body join with Representative Royce Adams in applauding this excellent institution and in wishing for its continued success. **Legislative Citation No. 47** was adopted without objection.

Representative Stumbo moved that the rules be suspended for the Introduction of Bills. Agreed.

Introduction of Bills (Continued)

HB 454, by Representatives Lovell, Geveden, D. Butler, and Bowling: AN ACT relating to liens.

HB 455, by Representatives Bowling, Richards, Yonts, Nunn, Weaver, Haydon, Lee, Moberly, Turner, Lovell, Murgatroyd, Callahan, Simpson, Geveden, Ford, Cave, L. Clark, Bruce, Damron, Stacy, Stumbo, Pope, Adkins and Gooch: AN ACT relating to criminal justice matters.

Motions, Petitions and Communications (Continued)

Representative Moberly moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Moberly moved that he be recorded as voting "yea" on **HB 174, HB 265, HB 1** and "nay" on **HB 173**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Hoffman moved that he be recorded as voting "yea" on **HB 171**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Gooch moved that his vote be changed from "nay" to "yea" on **HB 287**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Baugh moved that his vote be changed from "nay" to "yea" on **HB 265**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 51**, Representative Palumbo; **HB 106, HB 225, HB 258,** Representative Yonts; **HB 117**, Representatives Anderson, Allen, Baugh, Bratcher, D. D. Butler, Cave, P. Clark, Colter, Ford, Heleringer, Maricle, Hoover, Kerr, Napier, Rader, Stewart, J. Arnold, Walton, Crall, Treesh, Zimmerman; **HB 126**, Representatives Long, Wayne; **HB 127**, Representatives Marcotte, Maricle, Nunn; **HB 193**, Representative Miller; **HB 240, HB 408, HB 412**, Representative Rader; **HB 287**, Representative Walton; **HB 289**, Representative Callahan; **HB 295**, Representative Stine; **HB 382, HB 412**, Representative Colter; **HB 432**, Representative Vincent; **HB 434**, Representative Siler; **HCR 14**, Representative Bruce.

The following member requested that her name be withdrawn as co-sponsor of a Bill: **HB 381**, Representative Palumbo.

Announcements

The following meetings were announced:

Budget Review Subcommittee on General Government, Room 113, upon adjournment, January 29, 1998.

Western Kentucky Caucus, February 2, 1998, 2:00 p.m., Room 111.

Subcommittee on Natural Resources, Room 125, upon adjournment, January 29, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., February 2, 1998.

On the roll call the vote was **Yeas 81**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Bowling, Brandstetter, Bratcher, Brown, Bruce, D. Butler, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Collins, Colter, Cox, Crimm, Damron, DeWeese, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Miniard, Moberly, Murgatroyd, Napier, Nesler, Palumbo, Pope, Rasche, Ratliff, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Wayne, Wilkey, Worthington, Yonts, Zimmerman. **Nays 6**--Allen, Crall, Hoover, Maricle, Nunn, Stewart.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 2, 1998

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Church of the Good Shepherd, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bowling, Deskins, and Walton.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 29, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills

HB 456, by Representative Clarke: AN ACT relating to hearing screening tests for infants.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **SB 17**

Banking and Insurance: **HB 448**

Counties and Special Districts: **SB 13**

Education: **HB 446, HB 447, HB 449**

Health and Welfare: **SB 28**

Judiciary: **HB 454, HB 455**

Licensing and Occupations: **HB 452**

State Government: **HB 451, HB 453, SB 172**

Transportation: **HB 450**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **SB 22, SB 37, SB 70, SB 120, HB 218**

Health and Welfare: **HB 277, HB 278, HB 285, HB 380, HB 410, HB 412, HB 434**

Consent Calendar

HB 306 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Calendar

SB 26 and **HB 226** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 263**, by Representative Coleman:

On page 7, line 2, by deleting "*11*" and inserting "*12*" in lieu thereof;

On page 7, line 16, by deleting "*11*" and inserting "*12*" in lieu thereof;

On page 15, line 26, by placing open bracket before "(12)" and on page 16, line 3, by placing ending bracket after "KRS 238.560." and placing strikethroughs between open and closing bracket;

On page 16, between lines 3 and 4, by inserting the following:

"*SECTION 1. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:*

(1) The net receipts from charitable gaming retained by a charitable organization for the previous calendar year, provided the charitable organization was licensed at the start of the calendar year, shall be equal to or greater than forty percent (40%) of the adjusted gross receipts of the charitable organization for the same period. Any charitable organization which permits its license to expire or otherwise lapse shall still be subject to the retention requirement. All fees paid to the division during the calendar year shall be deducted from the adjusted gross receipts prior to making the calculation of percentage retained.

(2) The following actions shall be imposed on a licensed charitable organization that fails to retain the requisite percentage of adjusted gross receipts required in subsection (1) of this section. The calculation of percentages shall be rounded to the nearest tenth of a percent:

- *(a) If the percentage retained is between thirty-five percent (35%) and thirty-nine and nine-tenths percent (39.9%), the licensee shall be placed on probation for a period of one (1) year and shall be required to submit to the division an acceptable financial plan detailing corrective actions to be taken by the licensee to achieve the forty percent (40%) threshold by the end of the probationary period;*
- *(b) If the percentage retained is between thirty percent (30%) and thirty-four and nine-tenths percent (34.9%), the licensee shall have its license suspended for a period of one (1) year; and*
- *(c) If the percentage retained falls below thirty percent (30%) or if the licensee fails to attain the forty percent (40%) threshold for a second consecutive time, the licensee shall have its license suspended for a period of two (2) years.*

(3) Any licensee that has had its license suspended under the provisions of subsection (2)(b) or (c) of this section shall be required to submit to the division an acceptable financial plan as described in subsection (2)(a) of this section, upon applying for reinstatement of its license.

(4) Any licensee that has had its license revoked, has had its renewal application denied, or has had action initiated to revoke or deny its license for failure to meet the forty percent (40%) retention threshold prior to the effective date of this Act may petition the division for reconsideration of its action or proposed action. Upon petition for reconsideration, the division shall apply the standards contained in subsection (2) of this section and shall adjust the license status of the petitioner accordingly. The division shall give credit for the amount of time a license has been revoked in assessing penalties under subsection (2) of this section not to exceed the amount of time imposed under the new penalty."

On page 16, line 4, by deleting "7" and inserting "8" in lieu thereof;

On page 17, line 17, by deleting "8" and inserting "9" in lieu thereof;

On page 20, line 1, by deleting "*9*" and inserting "*10*" in lieu thereof;

On page 20, line 8, by deleting "9" and inserting "10" in lieu thereof;

On page 20, line 18, by deleting "*11*" and inserting "*12*" in lieu thereof;

On page 21, line 2, by deleting "*11*" and inserting "*12*" in lieu thereof;

On page 21, line 14, by deleting "10" and inserting "11" in lieu thereof;

On page 23, lines 5 through 7, by deleting all underlined language, brackets, and strikethrough;

On page 23, lines 5 through 13, by placing brackets and strikethroughs through the entire subsection;

On page 23, lines 14 through 20 by deleting the lines in their entirety;

On page 23, line 21, by deleting "11" and inserting "12" in lieu thereof;

On page 26, line 24, by deleting "12" and inserting "13" in lieu thereof;
On page 27, line 5, by deleting "13" and inserting "14" in lieu thereof;
On page 28, line 16, by deleting "14" and inserting "15" in lieu thereof.

Floor Amendment No. 1 to **HB 304**, by Representative Collins:

On page 2, after line 7 by inserting the following:
"Section 2. This Act takes effect on January 1, 1999."

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 4, HB 284, HB 15,** and **HB 226** have been posted for passage in the Orders of the Day for February 3, 1998.

Orders of the Day

HB 212, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 212**. Agreed.

Representative Nunn moved that **HB 212**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0 (See February 2, 1998 roll call on **HB 212** - Appendix) **HB 212**, by way of Committee Substitute, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 212**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 388, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 388**. Agreed.

Representative Moberly moved that **HB 388**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0 (See February 2, 1998 roll call on **HB 388** - Appendix) **HB 388**, as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 388**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 263**, by Representative Yonts:

On page 13, line 3, after the letter "(a)" by bracketing and striking through the number "1."; and

On page 13, line 6, by placing a bracket before the word "or", and on line 10 by placing a bracket after the number "164.290;", and by striking through all words between the brackets; and

On page 16, after line 3, by adding the following

"***(13) The following organizations shall be exempt from the provisions of KRS Chapter 238:***
(a) A common school within the Commonwealth of Kentucky as defined in KRS 158.030(1);
(b) An institution of higher education within the Commonwealth of Kentucky as defined in KRS 164A.305;
(c) A state college or university within the Commonwealth of Kentucky as provided for in KRS 164.290; and
(d) Any parent teacher organization, booster club, or any other similar group affiliated with any education institution covered under paragraphs (a), (b), and (c) of this subsection."

Orders of the Day (Continued)

HB 259 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 259** be passed.

On the roll call the vote was: Yeas 72, Nays 22 (See February 2 , 1998 roll call on **HB 259** - Appendix) **HB 259** was passed and the title agreed to. Representative Clarke moved that the vote by which **HB 259** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 382 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 382** be passed.

On the roll call the vote was: Yeas 69, Nays 24 (See February 2 , 1998 roll call on **HB 382** - Appendix) **HB 382** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 382** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 389, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 389**. Agreed.

Representative Moberly moved that **HB 389**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0 (See February 2, 1998 roll call on **HB 389** - Appendix) **HB 389**, as amended, was passed and the title agreed to. Representative Moberly moved that the vote by which **HB 389**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement on **HB 455** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 457, by Representatives Zimmerman and Nunn: AN ACT relating to health insurance.

HB 458, by Representative Riggs: AN ACT relating to deputy sheriff merit boards in counties containing a city of the first class.

HB 459, by Representative Palumbo: AN ACT relating to alcoholic beverage wholesalers' licenses.

HB 460, by Representatives Long, Heleringer, D. Graham, and Coleman: AN ACT relating to government contracts.

HB 461, by Representatives Stumbo, L. Clark, Richards, and Callahan: AN ACT relating to perjury.

HB 462, by Representative Damron: AN ACT relating to the Court of Justice.

HB 463, by Representative Maricle: AN ACT relating to education, making an appropriation therefor, and declaring an emergency.

HB 464, by Representatives D. D. Butler and Jenkins: AN ACT relating to operators' licenses.

HB 465, by Representatives D. D. Butler and Siler: AN ACT relating to the school term.

HB 466, by Representative Maricle: AN ACT relating to preneed burial contracts.

HB 467, by Representatives Treesh, Scott, Gray, Sims, Wilkey, and Crall: AN ACT relating to the funding of county jails.

HB 468, by Representative Worthington: AN ACT relating to the transportation of persons.

HB 469, by Representatives Moberly and Lee: AN ACT relating to teachers' salaries.

HB 470, by Representative Long: AN ACT relating to government operations.

HB 471, by Representatives Stein, Crenshaw, Stumbo, and Marzian: AN ACT relating to dogs and cats, providing funding therefor, and making an appropriation therefor.

HB 472, by Representatives Stein and Marzian: AN ACT relating to sterilization of dogs and cats.

HB 473, by Representative Treesh: AN ACT relating to child support

HB 474, by Representative Maricle and P. Clark: AN ACT relating to removal from public office.

HB 475, by Representative Riggs: AN ACT relating to insurance.

HB 476, by Representatives Crenshaw, Stein, Lee, Palumbo, Jenkins, Damron, Crall, Nunn, Johns, Jordan, Hoffman, Mason, L. Clark, A. Arnold, and Marzian: AN ACT relating to the Breast Cancer Advisory Committee.

HB 477, by Representatives Nunn, Crall, and Zimmerman: AN ACT relating to eligibility to be a candidate in a political primary election.

HB 478, by Representatives Maricle and P. Clark: AN ACT relating to school councils.

HR 62, by Representatives Crenshaw and Hatcher: A RESOLUTION recognizing the month of February as Black History Month.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 267, HB 374, HB 402, HB 415, SB 63**

Cities: **HB 420**

Judiciary: **HB 455**

Motions, Petitions and Communications (Continued)

Representative Burch moved the adoption of the following **Legislative Citation No. 51**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors James Andrew Downs in anticipation of his upcoming induction on February 7, 1998, as an Eagle Scout, the most prestigious and coveted rank in all of scouting. Representing exceptional merit, outstanding accomplishment and exemplary character, the achievement of this honor ensures America a bright future, promising high caliber leaders who live with honor, loyalty, courage and dedication to service. Inasmuch as this fine young Kentuckian has demonstrated extraordinary leadership abilities and noteworthy scholastic achievements, the members of this honorable body are pleased to join with Representative Tom Burch in congratulating this outstanding young man and in wishing him every success in the future. **Legislative Citation No. 51** was adopted without objection.

Representative Burch moved the adoption of the following **Legislative Citation No. 52**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors John Zimlich, Jr. in anticipation of his upcoming induction on February 7, 1998, as an Eagle Scout and for the perseverance and determination developed while energetically pursuing the exceptional ideals that are endorsed by the scouting program. The attainment of Eagle Scout status is a significant achievement representing an exemplary character, a caring spirit and a brave heart. This prestigious body joins Representative Tom Burch in recognizing the exceptional effort made by John Zimlich, Jr., and applauds his much-deserved recognition. **Legislative Citation No. 52** was adopted without objection.

Representative Burch moved the adoption of the following **Legislative Citation No. 53**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Clayton Parker Norris in anticipation of his upcoming induction on February 7, 1998, as an Eagle Scout. Attainment of this status represents well-deserved recognition of exceptional merit and outstanding accomplishments. Clayton Parker Norris exemplifies the model leader, involving himself in activities which build good character, develop potential and ensure America a brighter future. The House of Representatives joins with Representative Tom Burch in saluting this fine young man on this memorable occasion. **Legislative Citation No. 53** was adopted without objection.

Representative Burch moved the adoption of the following **Legislative Citation No. 54**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Kevin S. Keltey in anticipation of his upcoming induction on February 7, 1998, as an Eagle Scout. It is with delight and pride that this young man is recognized today for this outstanding accomplishment of attaining the most prestigious and coveted rank in all of scouting. Inasmuch as Kevin S. Keltey has demonstrated extraordinary leadership abilities and exemplary character, the members of this honorable body are pleased to join with Representative Tom Burch in congratulating this outstanding young man and in wishing him every continued success. **Legislative Citation No. 54** was adopted without objection.

Representative Wilkey moved the adoption of the following **Legislative Citation No. 49**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Bruce Simmons. The members of this honorable body join Representative Rob Wilkey in expressing deepest sympathy to the Simmons family and to all those friends who share in the great loss on the passing of this fine Kentuckian whose contributions to his community while serving as North District Constable were extraordinary. Bruce Simmons was a retired 32-year employee of the Kendall Company, a Kentucky Colonel, a member of Salmon's General Baptist Church, founder of the Franklin-Simpson Bow Club and veteran of the U. S. Air Force, serving during the Korean War. Those who knew him may count themselves blessed and he will be most sadly missed by his devoted wife, Jo Ann Russell Simmons, his beloved son, Bruce Simmons, Jr., his cherished daughter, Debbie McGregor, his adoring grandchildren and great grandchild, his brothers and sister and all whose lives were touched by this fine man. **Legislative Citation No. 49** was adopted without objection.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Marcotte moved that he be recorded as voting "yea" on **HB 388** and **HB 212**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended: **HB 66**, Representative Baugh; **HB 85, HB 297**, Representative P. Clark; **HB 106**, Representative A. Arnold; **HB 287**, Representatives P. Clark, Horlander; **HB 434**, Representative Rader; **HCR 59**, Representative Pope.

Announcements

The following was announced:

Diabetic testing, Room 111, 9:00 a.m. - 2:00 p.m., February 3, 1998.

Judiciary, Room 131, 10:00 a.m., February 3, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 3, 1998.

On the roll call the vote was **Yeas 76**--J. Adams, R. Adams, Adkins, Alexander, Allen, Anderson, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brown, Bruce, D. Butler, D. D. Butler, Callahan, L. Clark, P. Clark, Collins, Colter, Cox, Crenshaw, Crimm, Curd, Damron, Ford, Gee, Geveden, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Long, Marcotte, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Ratliff, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Wayne, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 6**--Brandstetter, Crall, Heleringer, Hoover, Nunn, Stewart.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 3, 1998

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Ken Bolin, Manchester Baptist Church, Manchester.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Miniard and Brandstetter.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 2, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 234**, by Representative Vincent:

On page 65, line 14, by adding after "***plan.***" the following: "***The monthly contribution, as determined by the board, shall be the state rate established for the Kentucky Kare Standard High Plan.***"

Floor Amendment No. 2 to the Committee Substitute to **HB 234**, by Representative Jenkins:

On Page 3, line 27, by deleting the words, "***approved by the board***" and inserting and underlining in lieu thereof, "***defined by the job description***"; and

On Page 65, line 4, by deleting "***or***"; and

On Page 65, line 10 - 13, by deleting them in their entirety; and

On page 65, line 14, by deleting the words "***same group insurance plan.***"; and

On Page 65, line 18, by deleting all underlined words on that line after the period "."; and

On Page 65, lines 19 - 23, by deleting all underlined language and inserting and underlining in lieu thereof, a new subparagraph number "***5.***", and capitalizing the word "In"; and

On Page 65, line 24, after the word "the" by inserting and underlining the words "***Kentucky Retirement Systems***"; and

On Page 66, lines 2 -25, by deleting all underlined language and removing all brackets and strike throughs; and

On Page 67, line 5, by deleting "***6.***"; and

On Page 67. line 9, by deleting "***(d)***" and removing the brackets and strike throughs from the "[~~(b)~~]".

Senate Message

Announcing passage of **SB 156, SB 158** and **HB 170**. (Time: 2:05 p.m.)

Introduction of Bills

HB 479, by Representatives Vincent and Treesh: AN ACT relating to residential care facilities.

HB 480, by Representative D. Graham: AN ACT relating to structural commercial and noncommercial pest control and fumigation.

HB 481, by Representatives Cox, Hoover, and Polston: AN ACT relating to economic development.

HB 482, by Representative Treesh: AN ACT relating to school finance.

HB 483, by Representative D. Graham: AN ACT relating to the "Kentucky Fertilizer and Pesticide Storage, and

Pesticide Use and Application Act."

HB 484, by Representative Moberly: AN ACT relating to the primary program.

HB 485, by Representative L. Clark: AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

HB 486, by Representatives Weaver, Brown, Pope, Ford, Zimmerman, McKee, Thomas, Wilkey, Sims, Haydon, J. Adams, Miller, Bruce, Callahan, Ballard, and Lee: AN ACT relating to the Commission on Military Affairs and declaring an emergency.

HB 487, by Representative Brown: AN ACT relating to the construction industry.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **HB 472**

Appropriations and Revenue: **HB 462**

Banking and Insurance: **HB 457, HB 475**

Counties and Special Districts: **HB 458, HB 467**

Education: **HB 463, HB 465, HB 469, HB 478**

Elections and Constitutional Amendments: **HB 474, HB 477**

Health and Welfare: **HB 456, HB 468, HB 471, HB 476**

Judiciary: **HB 461, HB 473**

Licensing and Occupations: **HB 459, HB 466**

State Government: **HB 460, HB 470**

Transportation: **HB 464**

The Clerk reported that the Committee on Committees has referred the following Resolution:

House Floor: **HR 62**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Agriculture and Small Business: **SB 17**

Report of Committees

The Committee on Health and Welfare reported **HB 187**, with Committee Substitute attached thereto, **HB 254**, with Committee Substitute attached thereto, and **HB 299**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 187, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) No hospital licensed under the provisions of this chapter shall prohibit a person licensed to practice as a registered nurse under KRS Chapter 314 from wearing a badge or other insignia indicating that the person is a registered nurse.

(2) No hospital licensed under the provisions of this chapter shall demote, dismiss, suspend, or otherwise penalize any employee for reporting a violation of subsection (1) of this section to the cabinet.

Section 2. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has

been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any boarding home which does not register as required by KRS 216B.305, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered.

(8) Any hospital acting by or through its agents or employees that violates any provision of Section 1 of this Act shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

The Committee Substitute to **HB 187** is as follows:

AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) No hospital licensed under the provisions of this chapter shall prohibit a person licensed, registered, certified, or otherwise regulated under the laws of the Commonwealth from wearing a badge or other insignia indicating that the person is a licensed, registered, certified, or otherwise regulated health care provider, provided the badge or insignia does not violate sterile procedures.

(2) No hospital licensed under the provisions of this chapter shall demote, dismiss, suspend, or otherwise penalize any employee for reporting a violation of subsection (1) of this section to the cabinet.

Section 2. KRS 216B.990 is amended to read as follows:

(1) Any person who, in willful violation of this chapter, operates a health facility without first obtaining a license or continues to operate a health facility after a final decision suspending or revoking a license, shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation.

(2) Any person who, in willful violation of this chapter, acquires major medical equipment, establishes a health facility, or obligates a capital expenditure without first obtaining a certificate of need, or after the applicable certificate of need has been withdrawn, shall be fined one percent (1%) of the capital expenditure involved but not less than five hundred dollars ($500) for each violation.

(3) Any hospital acting by or through its agents or employees which violates any provision of KRS 216B.400 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any hospital acting by or through its agents or employees which violates any provision of KRS 311.241 to 311.245 shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(5) Any hospital violating the provisions of KRS 311.241 may be denied a license to operate under the provisions of this chapter.

(6) Any health facility which willfully violates KRS 216B.250 shall be fined one hundred dollars ($100) per day for failure to post required notices and one hundred dollars ($100) per instance for willfully failing to provide an itemized statement within the required time frames.

(7) Any boarding home which does not register as required by KRS 216B.305, shall be fined one hundred dollars ($100) and ten dollars ($10) per day thereafter until they have registered.

(8) Any hospital acting by or through its agents or employees that violates any provision of Section 1 of this Act shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

HB 254, AN ACT relating to bicycle safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.287 is amended to read as follows:

(1) A person under the age of fourteen (14) shall not operate or ride as a passenger on any bicycle unless the person is wearing a helmet that meets or exceeds the standards of the American National Standards Institute, the standards of the Snell Memorial Foundation, the standards of the American Society of Testing and Measurements for Protective Headgear for use in bicycling, or other standards established by administrative regulations in accordance with subsection (2) of this section.

(2) The Transportation Cabinet may promulgate ***administrative regulations in accordance with KRS Chapter 13A to establish*** bicycle safety~~[regulations and]~~ standards. Bicycle riders and bicycles complying with ***the***~~[such regulations and]~~ standards are exempt from the provisions of KRS 189.040(9), 189.050(1), 189.050(5), and 189.080. ***These***~~[Such]~~ bicycles and riders are also exempt from municipal and other local government regulations concerning safety equipment but not ***the*** method of operation. In promulgating ***administrative*** regulations~~[and standards]~~ the Transportation Cabinet shall permit ***the*** use of lightweight modern technological substitutes for lights, reflectors, and bells.~~[The purpose of this section is to encourage bicycling and bicycle touring in this state by enabling bicycle riders to make use of modern technology to make their presence known to other users of the road. The Transportation Cabinet may consult with organizations of bicycle riders to aid it in the search for bicycle safety equipment and rules convenient for long distance bicycle riders]~~

(3) Violation of the provisions of subsection (1) of this section shall result in a twenty-five dollar ($25) fine for each offense in accordance with subsection (21) of Section 2 of this Act.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ***($0.02)***~~[(2¢)]~~ per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ***($0.03)***~~[(3¢)]~~ per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ***($0.05)***~~[(5¢)]~~ per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ***($0.07)***~~[(7¢)]~~ per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ***($0.09)***~~[(9¢)]~~ per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both.

For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who ***violates the provisions of subsection (1) of Section 1 of this Act shall be fined twenty-five dollars ($25) for each offense. A person who violates the administrative regulations promulgated under subsection (2) of Section 1 of this Act***[~~elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation~~] shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) ***for each offense***.[~~ A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.~~]

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

The Committee Substitute to **HB 254** is as follows:

AN ACT relating to bicycle safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.287 is amended to read as follows:

(1) A person under the age of fourteen (14) shall not operate or ride as a passenger on any bicycle unless the person is wearing a helmet that meets or exceeds the standards of the American National Standards Institute, the standards of the Snell Memorial Foundation, the standards of the American Society of Testing and Measurements for Protective Headgear for use in bicycling.

(2) The Transportation Cabinet may promulgate ***administrative regulations in accordance with KRS Chapter 13A to establish*** bicycle safety[~~ regulations and~~] standards. Bicycle riders and bicycles complying with ***the***[~~such regulations and~~] standards are exempt from the provisions of KRS 189.040(9), 189.050(1), 189.050(5), and 189.080. ***These***[~~Such~~] bicycles and riders are also exempt from municipal and other local government regulations concerning safety equipment but not ***the*** method of operation. In promulgating ***administrative*** regulations[~~ and standards~~] the Transportation Cabinet shall permit ***the*** use of lightweight modern technological substitutes for lights, reflectors, and bells.[~~ The purpose of this section is to encourage bicycling and bicycle touring in this state by enabling bicycle riders to make use of modern technology to make their presence known to other users of the road. The Transportation Cabinet may consult with organizations of bicycle riders to aid it in the search for bicycle safety equipment and rules convenient for long distance bicycle riders~~]

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ***($0.02)***[~~(2¢)~~] per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ***($0.03)***[~~(3¢)~~] per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ***($0.05)***[~~(5¢)~~] per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ***($0.07)***[~~(7¢)~~] per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ***($0.09)***[~~(9¢)~~] per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who ***violates the administrative regulations promulgated under subsection (2) of Section 1 of this Act***~~[elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation]~~ shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) ***for each offense***.~~[A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.]~~

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

  (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

  (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

HB 299, AN ACT relating to traumatic brain injury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to Section 2 of this Act;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Traumatic brain injury" means a partial or total disability caused by injury to the central nervous system from physical trauma, damage to the central nervous system from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute medical clinical incidents resulting in impaired cognitive abilities or impaired physical functioning. "Traumatic brain injury" does not include:

  (a) Strokes that can be treated in nursing facilities providing routine rehabilitation services;

  (b) Spinal cord injuries for which there are no known or obvious injuries to the intercranial central nervous system;

  (c) Progressive dementias and other mentally impairing conditions;

  (d) Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;

  (e) Mental retardation and birth defect related disorders of long standing nature; or

  (f) Neurological degenerative, metabolic and other medical conditions of a chronic, degenerative nature.

(4) "Trust fund" means the traumatic brain injury trust fund created pursuant to Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the purpose of administering the trust fund. The board shall be composed of nine (9) members including the Secretary of the Cabinet for Human Resources or the secretary's designee, the Executive Director of the Brain Injury Association of Kentucky or the executive director's designee, the Director of the Kentucky Injury Prevention and Research Center or the director's designee, and the following members, to be appointed by the Governor:

  (a) One (1) member shall be a neurosurgeon;

  (b) One (1) member shall be a neuropsychologist or psychiatrist;

  (c) One (1) member shall be a rehabilitation specialist;

(d) One (1) member shall be a social worker experienced in working with brain-injured individuals; and

(e) Two (2) members shall be family members of or individuals with a brain injury.

(2) Board members shall not be compensated for serving, but shall be reimbursed for ordinary travel expenses, including meals and lodging incurred in the performance of their duties.

(3) The terms of appointed board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 2000;

(b) Two (2) on June 30, 2001; and

(c) Two (2) on June 30, 2002.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two (2) consecutive four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership shall constitute a quorum.

(6) The board shall elect, by a majority vote, a director who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The director shall be elected or reelected for each calendar year.

(7) The board may establish any organizational structure it determines is necessary to accomplish its functions and duties, including the hiring of an executive director, a peer review organization, or other necessary support personnel.

(8) Meetings of the board shall be held at least twice a year but may be held more frequently, as deemed necessary, subject to call by the director or by the request of a majority of the board members.

(9) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(10) The board shall be attached to the cabinet for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 5 of this Act;

(2) Formulate policies and procedures for determining individual eligibility for assistance from the trust fund in accordance with the following guidelines:

(a) The trust fund shall serve as a funding source of last resort for residents of the Commonwealth of Kentucky. To be eligible for assistance from the trust fund, an individual must have exhausted all other funding sources that cover the type of services sought through the trust fund. Individuals who have continuing health insurance benefits, including Medicaid, may access the trust fund for services that are needed but not covered by insurance or any other funding source. Individuals who qualify for institutional care through Medicaid shall not qualify for services through the trust fund;

(b) All individuals receiving assistance from the fund shall receive case management services;

(c) Expenditures on behalf of any one (1) brain-injured individual may not exceed fifteen thousand dollars ($15,000) for any twelve (12) month period, and may not exceed a lifetime maximum of sixty thousand dollars ($60,000). At its discretion and subject to fund availability, the board may waive the expenditure or time limitations or both in special circumstances;

(d) Services covered by the trust fund shall include:

1. Case management;

2. Community residential services;

3. Structured day program services;

4. Psychological services;

5. Prevocational services;

6. Supported employment;

7. Companion services;

8. Respite care;

9. Occupational therapy; and

10. Speech and language therapy.

Covered services shall not include institutionalization, hospitalization, environmental modifications, special medical equipment and supplies, medications, and behavioral programs;

(3) Establish a confidential medical registry for traumatic brain and spinal cord injuries occurring in the Commonwealth of Kentucky, or to residents of the Commonwealth of Kentucky.

(a) The board may promulgate administrative regulations requiring licensed or certified professionals or health services providers to report the occurrence of brain and spinal cord injuries, relevant medical and epidemiological information about the injuries, and other information describing the circumstances of the injury to the board or its designated agent.

(b) The board and its designated agent, if one is appointed, shall observe the same confidentiality requirements established for the Kentucky birth surveillance registry in KRS 211.670.

(4) Investigate the needs of brain-injured individuals and identify gaps in current services;

(5) Assist the cabinet in developing programs for brain-injured individuals;

(6) Monitor and evaluate services provided by the trust fund; and

(7) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 1 of each year summarizing the activities of the board and the trust fund.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The traumatic brain injury trust fund is created as a separate revolving fund. The trust fund shall consist of moneys collected from an additional assessment of fifteen dollars ($15) imposed on driving under the influence offenses, an additional assessment of ten dollars ($10) imposed against selected speeding offenses, and an additional fine of five dollars ($5) imposed against selected moving violations.

(2) The trust fund may receive the proceeds from grants, contributions, appropriations, and any other moneys that may be made available for the purposes of the trust fund.

(3) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(4) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse to the general fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Trust fund moneys shall be distributed for the following purposes:

(1) To provide services to individuals suffering from conditions that qualify for assistance from the fund, in accordance with criteria established by the board in Section 3 of this Act;

(2) To establish and maintain a state medical registry for traumatic brain and spinal cord injuries; and

(3) To meet the obligations incurred by the board in meeting its duties in accordance with the provisions of Sections 2 and 3 of this Act.

Section 6. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound.for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five

hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) ***Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of five dollars ($5). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.***

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 7. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over	Prima Facie or Maximum Speed											
Limit	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32

17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to KRS 211.504, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.502.

(6) ***Ten dollars ($10) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) and the additional fee established in subsection (3) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.***

(7) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

(8)~~[(7)]~~ All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

Section 8. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood, or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(10) Any person who violates the provisions of subsection (1) of this section shall be assessed fifteen dollars ($15) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.

Section 9. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as

contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any two (2) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

The Committee Substitute to **HB 299** is as follows:

AN ACT relating to traumatic brain injury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Board" means the Traumatic Brain Injury Trust Fund Board created pursuant to Section 2 of this Act;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Traumatic brain injury" means a partial or total disability caused by injury to the central nervous system from physical trauma, damage to the central nervous system from anoxia, hypoxic episodes, allergic conditions, toxic substances, or other acute medical clinical incidents resulting in impaired cognitive abilities or impaired physical functioning. "Traumatic brain injury" does not include:

(a) Strokes that can be treated in nursing facilities providing routine rehabilitation services;

(b) Spinal cord injuries for which there are no known or obvious injuries to the intercranial central nervous system;

(c) Progressive dementias and other mentally impairing conditions;

(d) Depression and psychiatric disorders in which there is no known or obvious central nervous system damage;

(e) Mental retardation and birth defect related disorders of long standing nature; or

(f) Neurological degenerative, metabolic and other medical conditions of a chronic, degenerative nature.

(4) "Trust fund" means the traumatic brain injury trust fund created pursuant to Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Traumatic Brain Injury Trust Fund Board is hereby created for the purpose of administering the trust fund. The board shall be composed of nine (9) members including the Secretary of the Cabinet for Human Resources or the secretary's designee, the Executive Director of the Brain Injury Association of Kentucky or the executive director's designee, the state medical epidemiologist, and the following members, to be appointed by the Governor:

(a) One (1) member shall be a neurosurgeon;

(b) One (1) member shall be a neuropsychologist or psychiatrist;

(c) One (1) member shall be a rehabilitation specialist;

(d) One (1) member shall be a social worker experienced in working with brain-injured individuals; and

(e) Two (2) members shall be family members of or individuals with a brain injury.

(2) Board members shall not be compensated for serving, but shall be reimbursed for ordinary travel expenses, including meals and lodging incurred in the performance of their duties.

(3) The terms of appointed board members shall be four (4) years, except that the terms of initial members shall be staggered to end as follows:

(a) Two (2) on June 30, 2000;

(b) Two (2) on June 30, 2001; and

(c) Two (2) on June 30, 2002.

(4) At the end of a term, a member shall continue to serve until a successor is appointed and qualifies. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed and qualifies. A member who serves two (2) consecutive four (4) year terms shall not be reappointed for four (4) years after completion of those terms.

(5) A majority of the full authorized membership shall constitute a quorum.

(6) The board shall elect, by a majority vote, a director who shall be the presiding officer of the board, preside at all meetings, and coordinate the functions and activities of the board. The director shall be elected or reelected for each calendar year.

(7) The board may establish any organizational structure it determines is necessary to accomplish its functions and duties, including the hiring of any necessary support personnel. The administrative costs of the board shall be limited to three percent (3%) of the proceeds from the trust fund.

(8) Meetings of the board shall be held at least twice a year but may be held more frequently, as deemed necessary, subject to call by the director or by the request of a majority of the board members.

(9) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(10) The board shall be attached to the cabinet for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate administrative regulations necessary to carry out the provisions of Sections 1 to 5 of this Act;

(2) Formulate policies and procedures for determining individual eligibility for assistance from the trust fund in accordance with the following guidelines:

(a) The trust fund shall serve as a funding source of last resort for residents of the Commonwealth of Kentucky. To be eligible for assistance from the trust fund, an individual must have exhausted all other funding sources that cover the type of services sought through the trust fund. Individuals who have continuing health insurance benefits, including Medicaid, may access the trust fund for services that are needed but not covered by insurance or any other funding source. Individuals who qualify for institutional care through Medicaid shall not qualify for services through the trust fund;

(b) All individuals receiving assistance from the fund shall receive case management services;

(c) Expenditures on behalf of any one (1) brain-injured individual may not exceed fifteen thousand dollars ($15,000) for any twelve (12) month period, and may not exceed a lifetime maximum of sixty thousand dollars ($60,000). At its discretion and subject to fund availability, the board may waive the expenditure or time limitations or both in special circumstances;

(d) Services covered by the trust fund shall include:

1. Case management;

2. Community residential services;

3. Structured day program services;

4. Psychological services;

5. Prevocational services;

6. Supported employment;

7. Companion services;

8. Respite care;

9. Occupational therapy; and

10. Speech and language therapy.

Covered services shall not include institutionalization, hospitalization, environmental modifications, special medical equipment and supplies, medications, and behavioral programs;

(3) Establish a confidential medical registry for traumatic brain and spinal cord injuries occurring in the Commonwealth of Kentucky, or to residents of the Commonwealth of Kentucky.

(a) The board may promulgate administrative regulations requiring licensed or certified professionals or health services providers to report the occurrence of brain and spinal cord injuries, relevant medical and epidemiological information about the injuries, and other information describing the circumstances of the injury to the board or its designated agent. The reporting of data by licensed hospitals under this section shall be limited to that which is reported to the Cabinet for Human Resources pursuant to KRS 216.2920 to 216.2929 and the board shall obtain this data from the Cabinet for Human Resources. Each licensed hospital shall grant the board, upon presentation of proper identification, access to the medical records of patients with reportable brain and spinal cord injuries for the sole purpose of collecting additional information that is not available in the data obtained from the Cabinet for Human Resources. All costs associated with copying medical records shall be borne by the board. No liability of any kind shall arise or be enforced against any licensed hospital or hospital employee for providing the board access to a patient's medical record.

(b) The board and its designated agent, if one is appointed, shall observe the same confidentiality requirements established for the Kentucky birth surveillance registry in KRS 211.670.

(4) Investigate the needs of brain-injured individuals and identify gaps in current services;

(5) Assist the cabinet in developing programs for brain-injured individuals;

(6) Monitor and evaluate services provided by the trust fund; and

(7) Provide the Governor, the General Assembly, and the Legislative Research Commission an annual report by January 1 of each year summarizing the activities of the board and the trust fund.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The traumatic brain injury trust fund is created as a separate revolving fund. The trust fund shall consist of moneys collected from an additional assessment of fifteen dollars ($15) imposed on driving under the influence offenses, an additional assessment of ten dollars ($10) imposed against selected speeding offenses, and an additional fine of five dollars ($5) imposed against selected moving violations.

(2) The trust fund may receive the proceeds from grants, contributions, appropriations, and any other moneys that may be made available for the purposes of the trust fund.

(3) Expenditures from the trust fund on behalf of the medical registry created under Section 3 of this Act shall not exceed one hundred twenty-five thousand dollars ($125,000) for any fiscal year.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(5) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse to the general fund.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Trust fund moneys shall be distributed for the following purposes:

(1) To provide services to individuals suffering from conditions that qualify for assistance from the fund, in accordance with criteria established by the board in Section 3 of this Act;

(2) To establish and maintain a state medical registry for traumatic brain and spinal cord injuries; and

(3) To meet the obligations incurred by the board in meeting its duties in accordance with the provisions of Sections 2 and 3 of this Act.

Section 6. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to

189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2¢) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3¢) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5¢) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7¢) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9¢) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than

twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) ***Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of five dollars ($5). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.***

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)~~[(27)]~~ A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 7. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed											
	15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1

2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) Twelve dollars and fifty cents ($12.50) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) of this section. Funds collected pursuant to this subsection shall be deposited in the spinal cord and head injury research trust fund, created pursuant to KRS 211.504, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.502.

(6) ***Ten dollars ($10) shall be assessed for violations of KRS 189.390 in addition to the penalties set forth in subsections (1) and (2) and the additional fee established in subsection (3) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.***

(7) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

(8)[~~(7)~~] All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

Section 8. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood, or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than 0.10 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c) or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.10 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and

that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(10) Any person who violates the provisions of subsection (1) of this section shall be assessed fifteen dollars ($15) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to Section 4 of this Act, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 1 to 5 of this Act.

Section 9. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990***(28)***[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any two (2) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

The Committee on Natural Resources and Environment reported **HB 172, HB 282, HB 354,** and **HB 362** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 172, AN ACT relating to a groundwater monitoring network.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that groundwater makes up over ninety-five percent (95%) of the water resources in Kentucky. Groundwater accounts for over thirty percent (30%) of the public and domestic water supplies in the Commonwealth, and up to ninety percent (90%) of all rural domestic supplies, and is the major source of water to streams. It is imperative that a system for characterizing and monitoring groundwater be developed so that information acquired through various monitoring programs will allow Kentucky to identify and characterize the groundwater resource. The information from the monitoring network can be used to enhance the Kentucky Groundwater Data Repository; identify, characterize, and model groundwater systems; develop community and private water supplies; address resource allocation concerns; set boundaries on wellhead protection areas; recognize groundwater degradation if it occurs; and evaluate and improve the quality and quantity of data collected through all programs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Committee" means the Interagency Technical Advisory Committee on Groundwater as created in Section 4 of this Act;

(2) "Groundwater resource" means groundwater that is currently being used or is capable of being used;

(3) "Groundwater system" means a body of groundwater that is separated from other bodies of groundwater either by flow characteristics including but not limited to flow direction, flow speed, permeability, or storativity, or by water chemistry or layers of rock;

(4) "KGS" means the Kentucky Geological Survey; and

(5) "Monitoring network" means a series of wells, springs, and associated surface water that will be tested on a periodic basis for water level, discharge, and water chemistry.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) The KGS shall, in cooperation with the Interagency Technical Advisory Committee on Groundwater, establish a long-term groundwater monitoring network for the purpose of characterizing the quality, quantity, and distribution of Kentucky's groundwater resources.

(2) The monitoring network shall include:

(a) Representative sites sampled by various agencies;

(b) Water wells, springs, and surface water associated with wells and springs; and

(c) New monitoring wells installed in areas of demonstrated need.

This network shall collect information on a statewide basis and provide long-term data collection to determine the quality, quantity, and occurrence of groundwater throughout the Commonwealth.

(3) The KGS shall utilize collected data to support research efforts that develop models for groundwater systems, and to determine and monitor trends of groundwater movement, water quality, and quantity.

(4) The KGS shall provide data from the network to the Kentucky Groundwater Data Repository and make the data readily available to the public, government agencies, industry, and other entities that request access. Analyzed data may be made available in the form of maps, charts, bulletins, and reports.

(5) The KGS shall solicit input from federal, state, and local agencies, and industry, agriculture, universities, and the public to determine priority monitoring locations based on water quality and quantity concerns as the network is developed.

(6) Within ninety (90) days of the end of each state fiscal year, the KGS shall provide to the Governor and the Legislative Research Commission a summary of the groundwater monitoring network data collection and analysis activities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) There is established an Interagency Technical Advisory Committee on Groundwater to assist the KGS in the development, coordination, and implementation of a groundwater monitoring network for the Commonwealth. The committee shall consist of one (1) representative from each of the following agencies, to be appointed by that agency:

(a) Division of Conservation of the Department for Natural Resources;

(b) Division of Environmental Health and Community Safety of the Cabinet for Human Resources;

(c) Division of Forestry of the Department for Natural Resources;

(d) Division of Pesticides of the Department of Agriculture;

(e) Division of Waste Management of the Department for Environmental Protection;

(f) Division of Water of the Department for Environmental Protection;

(g) Department for Environmental Protection;

(h) Department of Mines and Minerals of the Public Protection and Regulation Cabinet;

(i) Department for Natural Resources;

(j) Department for Surface Mining Reclamation and Enforcement;

(k) Kentucky Geological Survey;

(l) University of Kentucky College of Agriculture; and

(m) University of Kentucky Water Resources Research Institute.

(2) The committee shall have one (1) nonvoting legislative liaison who shall be a member of the General Assembly and who shall be appointed by the Legislative Research Commission. The chair of the committee shall be the director of the University of Kentucky Water Resources Research Institute. The duties and responsibilities of the committee shall include:

(a) Developing a plan to coordinate agencies for the overall characterization of the state's groundwater, including occurrence, flow systems, water quantity, and water quality;

(b) Reviewing the data entry process to ensure that all data collected is placed into the Kentucky Groundwater Data Repository;

(c) Establishing a long-term groundwater monitoring plan for the Commonwealth;

(d) Making recommendations for prioritization of the state's groundwater research needs; and

(e) Annually reviewing and evaluating groundwater data collection and analysis.

(3) In addition to the members identified in subsection (1) or (2) of this section, the committee may have, as one (1) of its members, one (1) nonvoting representative from the U.S. Geological Survey, appointed by that agency.

HB 282, AN ACT relating to petroleum underground storage tanks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-110 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) Significant quantities of petroleum and petroleum products are being stored in petroleum storage tanks in the state to meet the needs of its citizens and to foster economic growth and development and the overall quality of life in the state;

(2) Spills, leaks, discharges, and other releases into the environment from petroleum storage tanks, however, have occurred, are occurring, or will occur, and such releases may pose a threat to public health and safety and the environment;

(3) Adequate financial resources must be readily available to provide a means for investigation and cleanup of contamination without delay;

(4) In recent years, petroleum storage tank owners or operators have been unable to obtain affordable pollution liability insurance coverage to pay for corrective action measures;

(5) It is in the best interests of the state to protect public health and safety and the environment by creating a fund for corrective action measures for releases into the environment from petroleum storage tanks;

(6) Commercial insurers may increase the availability and affordability of pollution liability insurance coverage for petroleum storage tanks if a comprehensive and efficient financial responsibility program for tanks is established;

(7) An efficient program of financial responsibility should include corrective action requirements that encourage petroleum storage tank owners or operators to take corrective action measures in the first instance;

(8) An efficient program of financial responsibility for petroleum storage tanks should minimize disputes over the causation of and responsibility for releases into the environment from petroleum storage tanks;

(9) ***An efficient program of financial responsibility should protect petroleum storage tank owners and operators from fraudulent claims against the fund to insure the fund's financial viability and should authorize the vigorous pursuit of fraudulent claims;***

(10) It is necessary and essential that the state use all practical means to control or eliminate pollution hazards posed by leaking petroleum storage tanks; and

(11)[~~(10)~~] It is the intent of the General Assembly that a state fund be created to assist petroleum storage tank owners or operators in complying with the federal financial responsibility requirements promulgated under federal regulations and to assist petroleum storage tank owners or operators in cleaning up contamination caused by a release.

Section 2. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4)[~~"Commission" means the Petroleum Storage Tank Environmental Assurance Fund Commission;~~

~~(5)~~] "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5)[~~(6)~~] "Dealer" means a person required to be licensed as a gasoline or special fuels dealer as defined in KRS 138.210(2);

(6)[~~(7)~~] "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(7)[~~(8)~~] "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(8)[~~(9)~~] "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(9)[~~(10)~~] "Fund" means the petroleum storage tank environmental assurance fund established pursuant to KRS 224.60-140;

(10)[~~(11)~~] "Gasoline" means gasoline as defined in KRS 138.210(4);

(11)[~~(12)~~] "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, ***kerosene,*** or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(12)[~~(13)~~] "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

(13) "Office" means the Office of Petroleum Storage Tank Environmental Assurance Fund;

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" means the same as defined in KRS 138.210(5);

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" means special fuels as defined in KRS 138.210(4); and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or

operator, who sustains bodily injury or property damage as a result of a release from that facility.

Section 3. KRS 224.60-120 is amended to read as follows:

(1) Each petroleum storage tank owner or operator shall establish and maintain evidence of financial responsibility, as provided for in this section, for taking corrective action and for compensating third parties for bodily injury and property damage.

(a) For petroleum storage tank owners or operators of eleven (11) or more tanks, the level of financial responsibility to be established and maintained shall be ***twelve thousand five hundred dollars ($12,500)***[~~twenty-five thousand dollars ($25,000)~~] per occurrence for taking corrective action and ***twelve thousand five hundred dollars ($12,500)***[~~twenty-five thousand dollars ($25,000)~~] per occurrence for compensating third parties for bodily injury and property damage.

(b) For petroleum storage tank owners or operators of six (6) to ten (10) tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be ***two thousand five hundred dollars ($2,500)***[~~five thousand dollars ($5,000)~~] per occurrence for taking corrective action and ***two thousand five hundred dollars ($2,500)***[~~five thousand ($5,000) dollars~~] per occurrence for compensating third parties for bodily injury and property damage.

(c) For petroleum storage tank owners or operators of five (5) or less tanks who have not been issued a closure letter from the cabinet, the level of financial responsibility to be established and maintained shall be ***five hundred dollars ($500)***[~~one thousand dollars ($1,000)~~] per occurrence for taking corrective action and for compensating third parties for bodily injury and property damage.

(2) Evidence of financial responsibility may be established by any combination of the following:

(a) Commercial or private insurance, including risk retention groups;

(b) Qualification as a self-insurer;

(c) A guarantee, surety bond, or letter of credit; or

(d) Any other reasonable and economically practicable means in a form acceptable to the ***office***[~~commission~~].

(3) To qualify as a self-insurer the petroleum storage tank owner or operator shall demonstrate a net worth in excess of the amounts specified in subsection (1) of this section. "Net worth" shall mean the monetary value of assets that remain after deducting liabilities. "Assets" shall mean all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

(4) The total liability of any guarantor under KRS 224.60-105 to 224.60-160 is limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the petroleum storage tank owner or operator pursuant to this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to a petroleum storage tank owner or operator, including, but not limited to, the liability of the guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. "Guarantor" shall mean any person, other than the petroleum storage tank owner or operator, who provides evidence of financial responsibility for a petroleum storage tank owner or operator pursuant to this section.

(5) It is the intent of the General Assembly that the fund established pursuant to KRS 224.60-140, combined with the financial responsibility required by this section, may be used by petroleum storage tank owners or operators to demonstrate their compliance with any financial responsibility requirements promulgated under federal regulations.

(6) The ***office***[~~commission~~] shall promulgate administrative regulations to implement this section. In promulgating administrative regulations, the ***office***[~~commission~~] shall not restrain or limit the use of any of the means of establishing financial responsibility specified in this section. ***The administrative regulations may allow a twenty-five percent (25%) reduction in the level of financial responsibility set in subsection (1) of this section for the timely completion of corrective action.***

Section 4. KRS 224.60-130 is amended to read as follows:

(1) ***There is created within the Public Protection and Regulation Cabinet, Office of the Secretary, the Office of Petroleum Storage Tank Environmental Assurance Fund***[~~The commission shall be created within sixty (60) days from April 9, 1990~~].

(2) The ***Office of Petroleum Storage Tank Environmental Assurance Fund***[~~commission~~] shall:

(a) Establish by administrative regulation the policy, guidelines, and procedures to administer the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the ***office***[~~commission~~] may distinguish between types, classes, and ages of petroleum storage tanks. The ***office***[~~commission~~] ***may***[~~shall~~] establish a range of amounts to be paid from the fund***, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs,*** and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. ***The criteria***

may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. The criteria for certification of laboratories shall be established no later than January 1, 1999. After April 1, 1999, owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the ***office***[~~commission~~] for reimbursement from the fund for the performance of corrective action. At a minimum, the ***office***[~~commission~~] shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the ***office***[~~commission~~] shall obligate funds necessary to meet these requirements;

(b) Establish by administrative regulation the criteria to be met to be eligible to participate in the fund and receive reimbursement from the fund. The ***office***[~~commission~~] may establish eligibility criteria based upon the financial ability of the petroleum storage tank owner or operator. ***To insure cost effectiveness, the office shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund.*** In promulgating administrative regulations to carry out this section, the ***office***[~~commission~~] may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

(c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal government for petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The amount to be maintained in this account shall be established by the ***office***[~~commission~~]. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the ***office***[~~commission~~];

(d) Establish a small operator assistance account within the fund which may be used by the ***office***[~~commission~~] to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;

(e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. This account shall not be used to compensate third parties for bodily injury and property damage. The ***office***[~~commission~~] shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the ***office***[~~commission~~] shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;

(f) Hear complaints brought before the ***office***[~~commission~~] regarding the payment of claims from the fund in accordance with KRS Chapter 13B;

(g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;

(h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform an actuarial study, no less than every two (2) years, that recommends to the ***office***[~~commission~~] an actuarially sound entry level to the fund prior to two (2) years from April 9, 1990. The ***office***[~~commission~~] shall, by administrative regulation, set the entry level for participation in the fund;

(i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund***,***[~~ and~~] the procurement of legal services***, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator***;

(j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the ***office***[~~commission~~] may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;[~~ and~~]

(k) ***Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of***

any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

(l) ***Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The office may collect soil or water samples or require storage tank owners or operators to split samples with the office for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the office to collect or split samples shall make the facility ineligible for fund participation; and***

(m) ***Have assurance fund auditors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation***[~~Be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes~~].

[~~(3) The commission shall hold at least four (4) regular meetings each calendar year at a place and time to be fixed by the commission. The commission shall also meet at the request of the chairman of the commission or upon a written request of three (3) members of the commission. Six (6) members constitute a quorum, and a quorum may act for the commission in all matters.~~]

(3)[~~(4)~~] The ***office***[~~commission~~] may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.

(4)[~~(5)~~] The ***office***[~~commission~~] may sue and be sued in its own name.

Section 5. KRS 224.60-140 is amended to read as follows:

(1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall be maintained as a separate and distinct interest-bearing account. All of the following amounts shall be deposited in the fund:

(a) Any interest earned upon money deposited in the fund;

(b) Money appropriated by the General Assembly for deposit in the fund;

(c) Any money recovered by the fund pursuant to this section; and

(d) Any money collected in the form of penalties levied pursuant to KRS 224.60-155.

(2) Money in the fund may be used by the ***office***[~~commission~~] for the following purposes:

(a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action as the result of a release into the environment from a petroleum storage tank***. Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established by the cabinet. Reimbursement shall not include additional costs related to compliance with a local program operating under KRS 224.60-105(4). Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under Section 4(2)(j) of this Act***;

(b) For payment of or reimbursement for third-party claims for bodily injury and property damage which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;

(c) To pay the reasonable costs incurred by the ***office***[~~commission~~] in administering the fund;

(d) Payment to the cabinet of the costs of implementing the tank registration required by KRS 224.60-142; and

(e) To operate the small operators' assistance account pursuant to KRS 224.60-130(2)(d)***,***[~~ and~~] the small operators' tank removal account pursuant to KRS 224.60-130(2)(j)***, to perform or contract for the performance of financial audits conducted under Section 4(2)(k) of this Act, and to employ sufficient assurance fund auditors to carry out the provisions of Section 4 of this Act and to set forth their duties***.

(3) The use of the fund shall not exceed one million dollars ($1,000,000) per occurrence for corrective action and one million dollars ($1,000,000) per occurrence for compensating third parties for bodily injury and property damage.

(4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).

(5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the

petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.

(6) A petroleum storage tank owner or operator may apply to the ***office***[~~commission~~] for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the ***office***[~~commission~~].

(7) The ***office***[~~commission~~] or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time.

(8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the ***office***[~~commission~~] from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.

(9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the ***office's***[~~commission's~~] cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.

(10) The amount of costs determined pursuant to ***subsections***[~~subsection~~] (8) ***and (18)*** of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.

(11) Money recovered by the ***office***[~~commission~~] pursuant to this section shall be deposited in the fund.

(12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.

(13) (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.

(b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.

(c) The fund shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.

(14) (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.

(b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.

(c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.

(15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.

(16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.

(17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.

(18) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 6. KRS 224.60-142 is amended to read as follows:

To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by July 15, ***2000***[~~1998~~].

Section 7. KRS 224.60-137 is amended to read as follows:

(1) The ***office***[~~commission~~] shall have a study performed to identify appropriate standards for corrective action for a release into the environment from a petroleum storage tank. The study shall address, but not be limited to, standards for levels of petroleum contamination, including lead, requiring corrective action to adequately protect human health, safety, and the environment consistent with accepted scientific and technical principles and federal law. The standards shall take into account distances to environmentally sensitive features, including surface waters, wetlands, nature preserves, protected ecological areas, springs and wells used for domestic water supply, and well head protection areas. The ***office***[~~commission~~] shall contract with a person or persons to perform the study qualified in the areas of engineering, hydrogeology, geology, toxicology, epidemiology, biology, public health, chemistry, and risk assessment. The ***office***[~~commission~~] shall provide for the October 18, 1993 study performed by the University of Kentucky to be completed within one hundred twenty (120) days of April 11, 1994, to comply with the requirements of this subsection.

(2) The ***office***[~~commission~~] shall contract with the University of Kentucky, or another person or persons having the qualifications established in subsection (1) of this section, to recommend revisions or amendments to the study based upon new information or changes in federal law, and to review and comment to the ***office***[~~commission~~] upon the consistency with the completed study of administrative regulations proposed by the cabinet pursuant to subsection (3) of this section. The person contracted with to recommend revisions or amendments to the study shall identify in writing any inconsistencies of the draft administrative regulations required by subsection (4) of this section with the completed study. The cabinet shall comment to the ***office***[~~commission~~] on the completed study report and any proposed revisions or amendments to the study. The ***office***[~~commission~~] shall approve the completed study report and any revisions or amendments to the study.

(3) The cabinet shall, by administrative regulation, establish standards for corrective action for a release into the environment from a petroleum storage tank. The administrative regulations shall adequately protect human health, safety and the environment, and shall incorporate the study performed for the ***office***[~~commission~~], except as necessary to comply with federal law or as provided in subsection (4) of this section.

(4) Within ninety (90) days of the receipt of the completed study report the cabinet shall prepare draft administrative regulations for submission to and review by the person performing the study. The comments required pursuant to subsection (2) of this section shall be filed with the ***office***[~~commission~~] and the cabinet within sixty (60) days of receipt of the draft administrative regulations by the ***office***[~~commission~~]. If any inconsistencies are identified, the person conducting the review and the cabinet shall confer to resolve the inconsistencies, and report to the ***office***[~~commission~~] within sixty (60) days. If the person conducting the review and the cabinet are unable to resolve the inconsistencies, the cabinet and the ***office***[~~commission~~] shall appoint an independent peer review group to resolve the inconsistencies and recommend amendments to the draft administrative regulations within sixty (60) days of appointment. The peer review group shall be appointed by agreement of the cabinet and the ***office***[~~commission~~]. The cabinet shall amend the draft administrative regulations to incorporate the amendments recommended by the peer review group and file the administrative regulations with the Legislative Research Commission within sixty (60) days of receipt. The administrative regulations shall be promulgated pursuant to the provisions of KRS Chapter 13A.

(5) Notwithstanding any provisions of law or KRS Chapter 13A to the contrary, the emergency administrative regulations filed by the cabinet in February 1994 shall remain in effect until the administrative regulations required by subsection (3) of this section are adopted and effective pursuant to the provisions of KRS 13A.330.

Section 8. KRS 224.60-145 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.

(2) All deductions detailed in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) The petroleum environmental assurance fee shall be set at a rate up to but not to exceed one and four-tenths cent ($0.014) for each gallon.

(5) The ***office***[~~commission~~] shall review the unobligated fund balance at least quarterly and report to the Revenue Cabinet the rate of the fee to be applied for the next quarter.

(6) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.

(7) The Revenue Cabinet shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).

Section 9. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.

(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.

(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
(a) Kentucky Community Service Commission.

4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 10. The following KRS section is repealed:

224.60-125 Petroleum Storage Tank Environmental Assurance Fund Commission.

Section 11. Executive Order 96-485, as modified and superseded by Executive Order 96-591, dated May 13, 1996, is confirmed to the extent that it is not otherwise confirmed by this Act.

HB 354, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.990 is amended to read as follows:

(1) Any permittee, person, or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for the violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violations provided in this section. Any permittee, operator, or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the violation continues. Any person issued an order pursuant to KRS 350.130(4) shall be assessed a civil penalty of not more than five thousand dollars ($5,000) for each violation cited in the underlying notice of noncompliance issued therewith. No separate civil penalty shall be assessed for the order issued pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Office of Legal Services. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person or operator who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person or operator who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any permittee, person, or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred~~[and]~~ fifty dollars ($750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator or permittee through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) The cabinet's Office of Legal Services shall bring an action for the recovery of penalties and bring an action for a

restraining order, temporary or permanent injunction, against any permittee, operator, or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any permittee, operator, or person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a Class A misdemeanor. Each day on which the violation occurs may constitute a separate offense.

(5) (a) Any person or operator who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person or operator who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person or operator who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony.

(b) Any person or operator who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony.

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any permittee, operator, or person who knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a Class A misdemeanor.

(8) Except as permitted by law, any permittee, operator, or person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall be guilty of a Class A misdemeanor.

(9) When a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(11) The cabinet, upon written request by any permittee, person, or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet's Division of Abandoned ***Mine*** Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel, and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person, permittee, or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

Section 2. The General Assembly hereby confirms Executive Order 97-714, dated June 11, 1997, which changes the name of the Division of Abandoned Lands within the Department for Surface Mining Reclamation and Enforcement to the Division of Abandoned Mine Lands, to the extent it is not otherwise confirmed by this Act.

HB 362, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 97-1040, dated August 15, 1997, which abolishes the Environmental Engineer Chief position and the Lock and Dam Section in the Department of Natural Resources of the Natural Resources and Environmental Protection Cabinet and transfers the Section's duties, functions, responsibilities, files, and inventory to the Kentucky River Authority.

The Committee on Appropriations and Revenue reported **HB 141** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 141, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. Sec. 81, fifteen cents ($0.15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of

the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570 except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

Section 2. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have

been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460 based on the vehicle's fair market value at the time of sale;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;~~[and]~~

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800***; and***

(18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs.

The Committee on Appropriations and Revenue reported **HB 175** and **HB 315**, with Committee Substitute No. 1 and Committee Substitute No. 2 attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 315** is as follows:

AN ACT relating to health insurance, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in Section 11 of this Act, with similar case characteristics for health benefit plans with the same or similar coverage.

(3) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3).

(4) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33).

(5) "COBRA" means any of the following:

  (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

  (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than Section 1169); or

  (c) 42 U.S.C. sec. 300bb;

(6) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;

2. Health insurance coverage;

3. Part A or Part B of Title XVIII of the Social Security Act;

4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;

5. Chapter 55 of Title 10, United States Code;

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefits risk pool;

8. A health plan offered under Chapter 89 of Title 5, United States Code;

9. A public health plan, as defined in regulations; or

10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section.

(7) "Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in subsection (2)(a), (b), and (c) in Section 6 of this Act;

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(8) "Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to the effective date of this Act, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

No employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(9) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(10) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics; or

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(11) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(12) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(13) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(14) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under Sections 15 to 23 of this Act;

(15) "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition;

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;

2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(16) "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier;

(17) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, or student health insurance offered by a Kentucky-licensed insurer under written contract with a

university or college whose students it proposes to insure;

(18) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(19) "Health status" means an individual's mental and physical condition, using the following factors: medical condition, claims experience, medical history, and health service utilization;

(20) (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with Section 14 of this Act, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, friedreich's ataxia, hemophilia, hodgkin's disease, huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and wilson's disease;

(21) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25) "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members.

(26) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered

persons using the participating providers and procedures provided for in the plan;

(27) "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(28) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(29) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(30) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(31) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(32) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(33) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(34) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(35) "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(36) "Standard benefit plan" means the plan identified in Section 7 of this Act.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers health benefit plan coverage in the small group, large group, or association market may not establish rules for eligibility of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or the dependent of the individual:

(a) Health status;

(b) Medical condition, including both physical and mental illness;

(c) Claims experience;

(d) Receipt of health care;

(e) Medical history;

(f) Genetic information;

(g) Evidence of insurability, including conditions arising out of acts of domestic violence; and

(h) Disability.

(2) An insurer that offers health benefit plan coverage in the small group, large group, or association market, shall not require any individual to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or a dependent of the individual. Nothing in this subsection shall prevent the insurer from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(3) Subject to subsections (4) to (7) of this section, each insurer that offers health benefit plan coverage in the small groups market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health benefit plan.

(a) Notwithstanding any other provision of this subsection, the insurer may establish group participation rules requiring a minimum number of participants or beneficiaries that must be enrolled in relation to a specified

percentage or number of those eligible for enrollment.

(b) The terms and participation rules of the group health benefit plan shall be uniformly applicable to small employers in the small group market.

(c) This subsection shall not apply to health benefit plan coverage offered by an insurer if the coverage is made available in the small group market only through one (1) or more bona fide associations.

(4) In the case of an insurer that offers health benefit plan coverage in the small group market through a network plan, the insurer may:

(a) Limit the employers that may apply for coverage to those with individuals who live, work, or reside in the service area of the network plan; and

(b) Within the service area of the network plan, deny coverage to employers if the insurer has demonstrated to the commissioner that:

1. The network plan will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and

2. The insurer is applying this denial uniformly to all employers.

(5) An insurer, upon denying health benefit plan coverage in any service area in accordance with subsection (4) of this section, shall not offer coverage in the small group market within the service area for a period of one hundred eighty (180) days after the date the coverage is denied.

(6) An insurer may deny health benefit plan coverage in the small group market if the insurer has demonstrated to the commissioner that:

(a) The insurer does not have the financial reserves necessary to underwrite additional coverage; and

(b) The insurer is applying this denial uniformly to all employers in the small group market.

(7) An insurer, upon denying health benefit plan coverage in connection with group health plans in accordance with subsection (6) of this section shall not offer coverage in the small group market for a period of one hundred eighty (180) days after the date the coverage is denied or until the insurer has demonstrated to the commissioner that the insurer has sufficient financial reserves to underwrite additional coverage, whichever is later.

(8) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be issued on a guaranteed-issue basis to all full-time employees and shall comply with the pre-existing condition provisions of Section 4 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the individual market on a guaranteed-issue basis as follows:

(1) An eligible individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market;

(2) Except as provided in subsection (3) of this section, an individual who has been a resident of Kentucky for at least twelve (12) months shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(3) Except as provided in subsection (4) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:

(a) The standard health benefit plan; or

(b) The insurer's health benefit plan, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plan sold so that it qualifies as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate upon approval of the commissioner any health benefit plan made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plan so that it qualifies as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(4) If the insurer does not generally operate in the individual market and has elected under subsection (3)(a) of Section 17 of this Act to be a guaranteed acceptance program participating insurer without generally operating in the

individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

(5) Subsections (1) to (4) of this section shall not apply to a health benefit plan offered by an insurer if the coverage is made available in the individual market through one (1) or more bona fide associations.

SECTION 4. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group health plans and insurers offering group health insurance coverage in the Commonwealth shall comply with the provisions of this section.

(2) Subject to subsection (5) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, may, with respect to a participant or beneficiary, impose a pre-existing condition exclusion only if:

(a) The exclusion relates to a condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six (6) month period ending on the enrollment date;

(b) The exclusion extends for a period of not more than twelve (12) months, or eighteen (18) months in the case of a late enrollee, after the enrollment date; and

(c) The period of that pre-existing condition exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date.

(3) For purposes of this section:

(a) 1. "Pre-existing condition exclusion" means, with respect to coverage, a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for that coverage, whether or not any medical advice, diagnosis, care, or treatment was recommended or received before that date; and

2. Genetic information shall not be treated as a condition described in subparagraph 1. of this paragraph in the absence of a diagnosis of the condition related to this information;

(b) "Enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for such enrollment;

(c) "Late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

1. The first period in which the individual is eligible to enroll under the plan; or

2. A special enrollment period under subsection (7) of this section; and

(d) "Waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan.

(4) (a) A period of creditable coverage shall not be counted, with respect to enrollment of an individual under a group health plan, if, after the period and before the enrollment date, there was a sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(b) For purposes of paragraph (a) of this subsection and subsection (5)(d) of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period, as defined in subsection (8)(b) of this section, shall not be taken into account in determining the continuous period under paragraph (a) of this subsection.

(c) 1. Except as otherwise provided under paragraph (b) of this subsection, for purposes of applying subsection (2)(c) of this section, a group health plan, and a health insurance insurer offering group health insurance coverage, shall count a period of creditable coverage without regard to the specific benefits covered during the period.

2. A group health plan, or a health insurance insurer offering group health insurance coverage, may elect to apply subsection (2)(c) of this section based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided under paragraph (a) of this subsection. This election shall be made on a uniform basis for all participants and beneficiaries. Under this election a group health plan or insurer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within this class or category.

3. In the case of an election with respect to a group health plan under paragraph (b) of this subsection, *whether or not health insurance coverage is provided in connection with the plan, the plan shall:*

a. Prominently state in any disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made this election; and

b. Include in these statements a description of the effect of this election.

(d) Periods of creditable coverage with respect to an individual shall be established through presentation of certifications described in subsection (6) of this section or in such other manner as may be specified in administrative regulations.

(5) (a) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of an individual who, as of the last day of the thirty (30) day period beginning with the date of birth, is covered under creditable coverage.

(b) Subject to paragraph (d) of this subsection, a group health plan, and a health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion in the case of a child who is adopted or placed for adoption before attaining eighteen (18) years of age and who, as of the last day of the thirty (30) day period beginning on the date of the adoption or placement for adoption, is covered under creditable coverage. The previous sentence shall not apply to coverage before the date of the adoption or placement for adoption.

(c) A group health plan, and health insurance insurer offering group health insurance coverage, may not impose any pre-existing condition exclusion relating to pregnancy as a pre-existing condition.

(d) Paragraphs (a) and (b) of this subsection shall no longer apply to an individual after the end of the first sixty-three (63) day period during all of which the individual was not covered under any creditable coverage.

(6) (a) 1. A group health plan, and a health insurance insurer offering group health insurance coverage, shall provide the certification described in subparagraph 2. of this subsection:

a. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision;

b. In the case of an individual becoming covered under that provision, at the time the individual ceases to be covered under the provision; and

c. On request on behalf of an individual made not later than twenty-four (24) months after the date of cessation of the coverage described in subdivision a. or b. of this subparagraph, whichever is later.

The certification under subdivision a. of this subparagraph may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision.

2. The certification described in this subparagraph is a written certification of:

a. The period of creditable coverage of the individual under the plan and the coverage, if any, under the COBRA continuation provision; and

b. The waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.

3. To the extent that medical care under a group health plan consists of group health insurance coverage, the plan is deemed to have satisfied the certification requirement under this paragraph if the health insurance insurer offering the coverage provides for the certification in accordance with this paragraph.

(b) In the case of an election described in subsection (4)(c)2. of this section by a group health plan or health insurance insurer, if the plan or insurer enrolls an individual for coverage under the plan and the individual provides a certification of coverage of the individual under paragraph (a) of this subsection:

1. Upon request of that plan or insurer, the entity that issued the certification provided by the individual shall promptly disclose to the requesting plan or insurer information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and

2. The entity may charge the requesting plan or insurer for the reasonable cost of disclosing this information.

(7) (a) A group health plan, and a health insurance insurer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan, or a dependent of that employee if the dependent is eligible, but not enrolled, for coverage under these terms, to enroll for coverage under the terms of the plan if each of the following conditions is met:

1. The employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

2. The employee stated in writing at that time that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or insurer, if applicable, required that statement at that time and provided the employee with notice of the requirement, and the consequences of the requirement, at that time;

3. The employee's or dependent's coverage described in subparagraph 1. of this paragraph:

a. Was under a COBRA continuation provision and the coverage under that provision was exhausted; or

b. Was not under such a provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment, or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

4. Under the terms of the plan, the employee requests the enrollment not later than thirty (30) days after the date of exhaustion of coverage described in subparagraph 3.a. of this paragraph or termination of coverage or employer contribution described in subparagraph 3.b. of this paragraph.

(b) 1. If:

a. A group health plan makes coverage available with respect to a dependent of an individual;

b. The individual is a participant under the plan, or has met any waiting period applicable to becoming a participant under the plan and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and

c. A person becomes such a dependent of the individual through marriage, birth, or adoption or placement for adoption;

the group health plan shall provide for a dependent special enrollment period described in subparagraph 2. of this paragraph during which the person or, if not otherwise enrolled, the individual, may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage.

2. A dependent special enrollment period under this subparagraph shall be a period of not less than thirty (30) days and shall begin on the later of:

a. The date dependent coverage is made available; or

b. The date of the marriage, birth, or adoption or placement for adoption, as the case may be, described in subparagraph 1.c. of this paragraph.

3. If an individual seeks to enroll a dependent during the first thirty (30) days of the dependent special enrollment period, the coverage of the dependent shall become effective:

a. In the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;

b. In the case of a dependent's birth, as of the date of the birth; or

c. In the case of a dependent's adoption or placement for adoption, the date of the adoption or placement for adoption.

(8) (a) In the case of a group health plan that offers medical care through health insurance coverage offered by a health maintenance organization, the plan may provide for an affiliation period with respect to coverage through the organization only if:

1. No pre-existing condition exclusion is imposed with respect to coverage through the organization;

2. The period is applied uniformly without regard to any health status-related factors; and

3. The period does not exceed two (2) months, or three (3) months in the case of a late enrollee.

(b) 1. For purposes of this section, the term "affiliation period" means a period which, under the terms of the health insurance coverage offered by the health maintenance organization, must expire before the health insurance coverage becomes effective. The organization is not required to provide health care services or benefits during this period and no premium shall be charged to the participant or beneficiary for any coverage during the period.

2. This period shall begin on the enrollment date.

3. An affiliation period under a plan shall run concurrently with any waiting period under the plan.

(c) A health maintenance organization described in paragraph (a) of this subsection may use alternative methods other than those described in that paragraph to address adverse selection as approved by the commissioner.

SECTION 5. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth shall not impose any pre-existing conditions exclusions as to any eligible individual.

(2) Each health insurer offering individual health benefit plan coverage in the individual market in the Commonwealth that chooses to impose a pre-existing conditions exclusion on individuals who do not meet the definition of eligible individual shall comply with the provisions of Section 4 of this Act, which establishes standards and requirements for pre-existing conditions exclusions for group health plans, including crediting previous coverage, and certification of coverage; except the period of creditable coverage shall only reduce the period of a pre-existing condition exclusion in a policy that has benefits substantially similar to the benefits provided in the creditable coverage. Pregnancy may be considered to be a pre-existing condition.

(3) Genetic information shall not be treated as a pre-existing condition in the absence of a diagnosis of the condition related to the information.

SECTION 6. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, an insurer shall renew or continue in force a health benefit plan at the option of the insured.

(2) An insurer may nonrenew or discontinue a health benefit plan based only on one (1) or more of the following:

(a) The insured has failed to pay premiums or contributions in accordance with the terms of the plan or the insurer has not received timely premium payments;

(b) The insured has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The insured has engaged in intentional and abusive noncompliance with material provisions of the health benefit plan;

(d) The insurer is ceasing to offer coverage in the individual or group market in accordance with subsection (3) of this section;

(e) In the case of an insurer that offers health benefit plans through a network plan, the individual no longer resides, lives, or works in the service area or in an area for which the insurer is authorized to do business, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals, or there is no longer any enrollee in connection with the group plan who resides, lives, or works in the service area of the insurer; or

(f) In the case of a health benefit plan that is made available only through one (1) or more bona fide associations, the membership of the individual or employer in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(3) (a) In any case in which an insurer decides to discontinue offering a particular type of health benefit plan, coverage of the type may be discontinued by the insurer upon approval by the commissioner only if:

1. The insurer provides notice to each insured provided coverage of this type in the market of the discontinuation at least ninety (90) days prior to the date of the discontinuation of the coverage;

2. The insurer offers, to each insured provided coverage of this type, the option to purchase any other health benefit plan currently of that type being offered by the insurer in that market; and

3. In exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph 2. of this paragraph, the insurer acts uniformly without regard to any health status-related factor of enrolled insureds or insureds who may become eligible for coverage.

(b) 1. Subject to paragraph (a)3. of this subsection, in any case in which an insurer elects to discontinue offering all health benefit plans in Kentucky, health benefit plans may be discontinued by the insurer only if:

a. The insurer provides notice to the commissioner and to each insured of the discontinuation at least one hundred eighty (180) days prior to the date of the expiration of the coverage; and

b. All health benefit plans issued or delivered for issuance in Kentucky are discontinued and coverage under the health benefit plans is not renewed.

2. In the case of a discontinuation under subparagraph 1. of this paragraph, the insurer may not provide for the issuance of any health benefit plans in Kentucky during the five (5) year period beginning on the date of the discontinuation of the last health benefit plan not so renewed.

(4) At the time of coverage renewal, an insurer may modify, with approval of the commissioner, the health benefit plan for a policy form so long as the modification is consistent with this chapter and effective on a uniform basis among all individuals with that policy form.

(5) In applying this section in the case of a health benefit plan that is made available by an insurer only through one (1) or more associations, a reference to an individual is deemed to include a reference to an association of which the individual is a member, and a reference to an employer member is deemed to include a reference to the employer.

SECTION 7. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall, by administrative regulations promulgated under KRS Chapter 13A, define one (1) standard health benefit plan that shall provide health insurance coverage in the individual and small group markets after June 30, 1998. As a condition of doing business in the individual or small group market in the Commonwealth, the health insurer shall offer the standard health benefit plan, but the extent to which the standard health benefit plan shall be offered on a guaranteed issue basis shall only be as provided in Sections 2 and 3 of this Act. Except as may be necessary to coordinate with changes in federal law, the commissioner shall not alter, amend, or replace the standard health benefit plan more frequently than annually. Initially, the standard health benefit plan shall be the standard high plan in effect on the effective date of this Act.

(2) The standard health benefit plan shall be available in at least one (1) of these four (4) forms of coverage:

(a) A fee-for-service product type;

(b) A health maintenance organization type;

(c) A point of service type; and

(d) A preferred provider organization type.

(3) The standard health benefit plan shall be defined so that it meets the requirements of Section 18 of this Act for inclusion in calculating assessments and refunds under the guaranteed acceptance program.

(4) Any health insurer who elects to offer health insurance policies in the individual or small group markets in this state shall, as a condition of offering health benefit plans in this state after June 30, 1998, offer and issue the standard health benefit plan in the individual or small group markets in each and every form of coverage that the health insurer offers to sell.

(5) Nothing in this section shall be construed:

(a) To require a health insurer to offer a standard health benefit plan in a form of coverage that the health insurer has not selected;

(b) To prohibit a health insurer from offering other health benefit plans in the individual or small group markets in addition to the standard health benefit plan; or

(c) To require that a standard health benefit plan have guaranteed issue, renewability, or pre-existing condition exclusion rights or provisions that are more generous to the applicant than the health insurer would be required to provide under Sections 2, 3, 4, 5, and 6 of this Act.

(6) Insurance agents licensed under this chapter who present for sale any health benefit plan in the individual or small group markets to a prospective applicant shall also inform that person of the existence of the standard benefit plan in the same form of coverages offered by the same insurer.

(7) (a) A benefits comparison shall be delivered to a prospective applicant for any health insurance coverage in the individual or small group markets at the time of initial solicitation through means that prominently direct the attention of the prospective applicant to the document and its purpose.

1. The commissioner shall prescribe a standard format, including style, arrangement, and overall appearance, and the content of a benefits comparison.

2. In the case of agent solicitations, an agent shall deliver the benefits comparison to the prospective applicant prior to the presentation of an application or enrollment form.

3. In the case of direct response solicitations, the benefits comparison shall be presented in conjunction with any application or enrollment form.

(b) The benefits comparison given to a prospective applicant shall include:

1. A description of the principal benefits and coverage provided in the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant;

2. A statement of the principal exclusions, reductions, and limitations contained in the standard health benefit plan offered under this section, and the health benefit plan being offered to the prospective applicant; and

3. A chart providing a direct comparison of the insurer's premium rate for the standard health benefit plan offered under this section, and the health benefit policy being offered to the prospective applicant.

(c) At the time of the execution of an application for any health benefit plan, the prospective applicant shall sign a statement contained in or accompanying the application, which shall remain on file with the health insurer for five (5) years, indicating that the insured has been provided with and understands the benefits comparison required by this subsection.

(d) As used in this subsection and in subsection (6) of this section, the term "prospective applicant" refers only to a natural person who is a resident of the Commonwealth and who is purchasing health insurance coverage in the individual market providing benefits to that person, that person's spouse, or that person's children. It does not include an employer or representative of an employer who is considering health insurance coverage that would provide benefits to employees and their families.

(8) All health benefit plans shall cover hospice care at least equal to the Medicare benefits.

(9) All health benefit plans shall coordinate benefits with other health benefit plans in accordance with the guidelines for coordination of benefits prescribed by the commissioner as provided in KRS 304.18-085.

(10) Every health insurer of any kind, nonprofit hospital, medical-surgical, dental and health service corporation, health maintenance organization, or provider-sponsored health delivery network that issues or delivers an insurance policy in this state that directs or gives any incentives to insureds to obtain health care services from certain health care providers shall not imply or otherwise represent that a health care provider is a participant in or an affiliate of an approved or selected provider network unless the health care provider has agreed in writing to the representation or there is a written contract between the health care provider and the insurer or an agreement by the provider to abide by the terms for participation established by the insurer. This requirement to have written contracts shall apply whenever an insurer includes a health care provider as a part of a preferred provider network or otherwise selects, lists, or approves certain health care providers for use by the insurer's insureds. The obligation set forth in this section for an insurer to have written contracts with providers selected for use by the insurer shall not apply to emergency or out-of-area services.

(11) A self-insured plan may select any third party administrator licensed under KRS 304.9-052 to adjust or settle claims for persons covered under the self-insured plan.

(12) Any health insurer that fails to issue a premium rate quote to an individual within thirty (30) days of receiving a completed application request for the quote shall be required to issue coverage to that individual and shall not impose any pre-existing conditions exclusion on that individual with respect to the coverage. Each health insurer offering individual health insurance coverage in the individual market in the Commonwealth that refuses to issue a health benefit plan to an insured with a high-cost condition shall provide the individual with a denial letter within twenty (20) working days of the request for coverage. The letter shall include the name and title of the person making the decision, a statement setting forth the specific high-cost condition that is the basis for refusing to issue a policy, a description of the Guaranteed Acceptance Program, and the name and the telephone number of a contact person who can provide additional information about the Guaranteed Acceptance Program.

(13) If a standard health benefit plan covers services that the plan's insureds lawfully obtain from health departments established under KRS Chapter 212, the health insurer shall pay the plan's established rate for those services to the health department.

SECTION 8. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer that, on or after July 15, 1995, until the effective date of this Act, issued standard health benefit plans under KRS 304.17A-160 and then ceased doing business in Kentucky may apply to the commissioner on or after the effective date of this Act for approval to reenter Kentucky and if the commissioner grants approval the insurer may engage in the health insurance business notwithstanding the provisions of KRS 304.17A-110(1)(d) as it existed on the date the insurer ceased doing business in Kentucky.

Section 9. KRS 304.17A-095 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, each insurer that issues, delivers, or renews any health benefit plan shall, before use thereof, file with the commissioner its rates, fees, dues, and other charges paid by insureds, members, enrollees, or subscribers*, shall submit a copy of the filing to the Attorney General,* and shall comply with the provisions of this section. The insurer shall adhere to its rates, fees, dues, and other charges as filed with the commissioner. The insurer may submit new filings from time to time as it deems proper[~~, except as provided in~~

~~subsection (5) of this section~~].

(2) (a) ***A rate filing under this section may be used by the insurer on and after the date of filing with the commissioner prior to approval by the commissioner. A rate filing shall be approved or disapproved by the commissioner within sixty (60) days after the date of filing. Should sixty (60) days expire after the commissioner receives the filing before approval or disapproval of the filing, the filing shall be deemed approved. The commissioner may hold a hearing within sixty (60) days after receiving a filing containing a rate increase. Not less than thirty (30) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General may participate as a health insurance consumer intervenor and be considered a party to the hearing.***

(b) The commissioner shall hold a hearing upon written request, including the reasons for the request, by the Attorney General, provided the request is in accordance with subsection (3) of this section.

(c) The commissioner shall hold a hearing, unless waived by the health insurer, before ordering a retroactive reduction of rates.

(d) The hearing shall be a public hearing conducted in accordance with KRS Chapter 13B.

(e) In the circumstances of a filing that has been deemed approved under paragraph (a) of this subsection, the commissioner shall have the authority to order a retroactive reduction of rates to a reasonable rate if after applying the factors in subsection (3) of this section the commissioner determines that the rates were unreasonable. If the commissioner seeks to order a retroactive reduction of rates and more than one (1) year has passed since the date of the filing, the commissioner shall consider the reasonableness of the rate over the entire period during which the filing has been in effect.[~~Each filing under this section shall be on file for a waiting period of thirty (30) days before it becomes effective. The period may be extended by the commissioner for an additional period not to exceed thirty (30) days if the commissioner gives notice within the waiting period to the insurer that it needs the additional time for consideration of the filing. At the end of the thirty (30) day period, or any additional period if extended by the commissioner pursuant to this subsection, the filing shall be deemed approved unless prior thereto it has been disapproved by order of the commissioner or the commissioner has directed that a hearing be held.~~

~~(b) The commissioner may hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~

~~(c) If the filing contains an average premium rate increase which will result in a percentage increase over the insurer's average existing rates that is greater than the percentage change in the medical care consumer price index for all urban consumers for the South region as published by the federal Bureau of Labor Statistics, plus three percent (3%), since the last filing of the insurer for any of the same policies or contracts, the commissioner shall hold a hearing, without request by others, within thirty (30) days after receiving a filing under this subtitle, or during an additional thirty (30) day period, and shall issue an order approving or disapproving the filing within thirty (30) days following the conclusion of the hearing.~~]

(3) In approving or disapproving a filing under this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium or fee charged;

(b) Whether the fees paid to providers for the covered services are reasonable in relation to the premium or fee charged;

(c) Previous premium rates or fees for the policies or contracts to which the filing applies;

(d) The effect of the rate or rate increase on policyholders, enrollees, and subscribers;

(e) Whether the rates, fees, dues, or other charges are excessive, inadequate, or unfairly discriminatory; and

(f) ***The effect on the rates of any assessment made under Section 21 of this Act; and***

(g) Other factors as deemed relevant by the commissioner.

(4) ***The rates for each policyholder shall be guaranteed for twelve (12) months at the rate in effect on the date of issue or date of renewal***[~~Not less than ten (10) days in advance of a hearing held under this section, the commissioner shall notify the Attorney General in writing of the hearing. The Attorney General shall participate as a health insurance consumer intervenor and be considered a party to the hearing~~].

(5)[~~No insurer receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate or fee increase for any of the same policies or contracts until at least twelve (12) months have elapsed following the effective date of the approved increase.~~

~~(6)~~] At any time the commissioner, after a public hearing for which at least thirty (30) days' notice has been given, may withdraw approval of rates or fees previously approved under this section and may order an appropriate refund ***or future premium credit*** to policyholders, enrollees, and subscribers if the commissioner determines that the ***rates or fees*** *previously approved are in violation of this chapter*[~~benefits are no longer reasonable in relation to the premiums or fees charged~~].

(6) Each insurer paying a risk assessment under Section 21 of this Act may include the amount of the assessment in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(7) The commissioner may by administrative regulation prescribe any additional information *related to rates, fees, dues, and other charges as they relate to the factors set out in subsection (3) of this section that he or she*[~~it~~] deems *necessary and* relevant to be included in the filings and the form of the filings required by this section.

[~~(8) Because of the duties of the commissioner imposed under KRS 304.17A-090, the commissioner may, between July 15, 1996, and December 31, 1996, in addition to the thirty (30) day extension allowed under subsection (2) of this section, further extend the waiting period and the time for holding a hearing up to two (2) additional thirty (30) day periods upon thirty (30) days' written notice to the insurer of each extension that the additional periods are necessary due to proper fulfillment of the commissioner's duties under KRS 304.17A-090.~~]

SECTION 10. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after the effective date of this Act shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, health status, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until the effective date of this Act for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates after the effective date of this Act. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under Section 15 of this Act shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after the effective date of this Act; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after the effective date of this Act and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, health status, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995 and the effective date of this Act to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

SECTION 11. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in Section 1 of this Act;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to the effective date of this Act, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" has the meaning provided in Section 1 of this Act.

(2) Notwithstanding any other provision of this chapter, the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section, based upon the experience or projected experience of the employer-organized associations whose employers obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the

commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate by more than twenty-five percent (25%) of its own index rate.

(b) The percentage increase in the premium rate charged to an employer member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, health status, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

SECTION 12. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Purchasing Alliance created under this subtitle shall not issue or renew any business after the effective date of this Act. The commissioner shall take necessary and appropriate actions to terminate all activities of the alliance no later than June 30, 1999, and shall provide assistance to persons who are members of the alliance in obtaining health insurance coverage in the private market. KRS 304.17A-010 to 304.17A-070 shall become null and void on July 1, 1999.

(2) No health benefit plans shall be issued, delivered, or renewed under the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 on or after the effective date of this Act. Health benefit plans in effect on the effective date of this Act shall be subject to the provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 until the end of the contract or policy period. The provisions of KRS 304.17A-110, 304.17A-120, and 304.17A-160 shall become null and void on July 1, 1999.

SECTION 13. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health insurer, including the Kentucky State Medicaid program and Medicaid partnerships.

SECTION 14. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may, by administrative regulation, add to the list of high-cost conditions provided in Section 1 of this Act other high-cost conditions based on diagnosis and severity. At the request of an insurer, the commissioner shall hold a hearing to determine whether or not a condition should be listed.

SECTION 15. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Sections 15 to 23 of this Act shall be referred to as the Kentucky Guaranteed Acceptance Program.

(2) There is hereby created and established the Kentucky Guaranteed Acceptance Program which is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health insurance coverage allowed by federal law.

(3) Payment to providers of services under program plans shall not be discriminatory. Guaranteed acceptance program

insurers shall reimburse providers at rates that are no less favorable than the rates paid to the comparable providers for services delivered to enrollees who do not have a high-cost condition.

(4) All insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations, as a condition of doing business in Kentucky, shall participate in the Kentucky Guaranteed Acceptance Program either as a guaranteed acceptance program supporting insurer or a guaranteed acceptance program participating insurer.

(a) A guaranteed acceptance program insurer participates in the program by both issuing guaranteed acceptance program plans to guaranteed acceptance program qualified individuals in accordance with the provisions of this subtitle and by being subject to assessments and payments through the risk assessment process.

(b) A guaranteed acceptance program supporting insurer participates in the program only by being subject to assessments and payments through the program risk assessment process.

SECTION 16. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 15 to 23 of this Act, unless the context requires otherwise:

(1) "Actual guaranteed acceptance program plan losses" means a dollar amount calculated by subtracting an insurer's guaranteed acceptance program plan claims from that insurer's guaranteed acceptance program plan premiums;

(2) "Benefits" means amounts paid by an insurer to covered lives or to third parties for the benefit of covered lives. "Benefits" do not include an insurer's administrative costs, any assessments under the plan, allocated loss adjustment expenses, reserves, or other overhead costs;

(3) "Guaranteed acceptance program plan claims" means the dollar amount of benefits actually paid by an insurer in a calendar year with respect to program plans or another claim measurement formula as the department may establish by administrative regulation to measure an insurer's costs, other than administrative costs, allocated loss adjustment expenses, reserves, or other overhead costs, with respect to a program plan;

(4) "Guaranteed acceptance program plan premiums" means the dollar amount of premiums received by an insurer with respect to program plans;

(5) "Guaranteed acceptance risk adjustment process" means the process of allocating guaranteed acceptance program plan losses provided for in Section 21 of this Act;

(6) "Group market" means the health insurance market under which individuals obtain health insurance coverage, directly or through any arrangement, on behalf of themselves and their dependents through a group health plan or through any arrangement other than through the individual market, or through a federal health benefit plan or program;

(7) "Health insurance stop-loss policy" means any policy of insurance that directly or indirectly protects, in whole or in part, an employer who self-insures health benefits covering any residents in Kentucky from the risk of paying benefits in excess of any specified amount;

(8) "Market share" means a percentage calculated by dividing an insurer's health insurance coverage premiums in both the individual and group markets by the total amount of the health insurance coverage premiums in both the individual and group markets for all insurers;

(9) "Other coverage" means coverage under any of the following:

(a) A group plan;

(b) Part A or Part B of Title XVIII of the Social Security Act, 42 U.S.C. sec. 1995c et seq.;

(c) A state plan under Title XIX of the Social Security Act, or any successor program;

(d) Continuation coverage under any COBRA continuation provisions as defined in 42 U.S.C. sec. 300gg-91(d)(4) or under a similar program under any state law; or

(e) Any other health insurance coverage which is not individual health insurance coverage;

(10) "Premiums" means amounts paid to insurers to purchase health insurance coverage and includes all amounts paid however denominated, including, but not limited to, amounts indicated as being charged for administrative costs, allocated loss adjustment expenses, reserve or other overhead costs;

(11) "Program" means the Kentucky Guaranteed Acceptance Program;

(12) "Refund" means an amount to be paid to an insurer by the program;

(13) "Stop-loss carrier" means any person providing health insurance stop-loss coverage;

(14) "Stop-loss premiums" means amounts paid to purchase health insurance stop-loss coverage; and

(15) "Total actual guaranteed acceptance program plan losses" means a dollar amount equal to the sum of the actual program plan losses of all insurers participating in the program.

SECTION 17. A NEW SECTION OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each insurer issuing health benefit plans in Kentucky and that had a market share of twenty-five percent (25%) or more for any calendar year shall be a program participating insurer for the following calendar year.

(2) On or before July 1, 1998, each insurer issuing health benefit plans in Kentucky, other than the insurers required by subsection (1) of this section to be a program participating insurer, shall advise the commissioner in writing whether it will participate in the program as a program participating insurer or a program supporting insurer. After July 1, 1998, no insurer shall issue health benefit plans in Kentucky without first advising the commissioner in writing that it will participate in the program as a program participating insurer or a program supporting insurer. Any insurer issuing health benefit plans in Kentucky that fails to advise the commissioner of the nature of its participation in the program shall be deemed a program supporting insurer unless it is required by subsection (1) of this section to be a program participating insurer.

(3) An insurer who elects to be a program participating insurer may elect to participate under the following conditions:

(a) Network-based insurers may limit coverage to the benefit plans offered to persons residing in the geographic area covered by the providers network; and

(b) A group insurer may elect to be a program participating insurer without otherwise operating in the individual market.

(4) The department shall publicize a monthly list of program participating insurers.

(5) The provisions of Sections 15 to 23 of this Act shall not apply to an insurer that provides coverage solely to Medicaid recipients, Medicare beneficiaries, or CHAMPUS insureds.

SECTION 18. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

(a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

(b) An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;

(c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under Section 2 of this Act;

(d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

SECTION 19. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

On the date the individual first becomes eligible for coverage under a guaranteed acceptance program plan the individual may be charged a premium of up to:

(1) One hundred fifty percent (150%) of the index rate charged to a person of identical or similar case characteristics

who has not been diagnosed or treated with a high-cost condition if the individual in the immediate preceding sixty-three (63) day period, excluding any waiting or affiliation period, was not covered under any creditable coverage during the entire sixty-three (63) day period; or

(2) The maximum as provided in Section 10 of this Act, if the individual in the immediate preceding sixty-three (63) day period, excluding any waiting or affiliation period, had creditable coverage during any part of the sixty-three (63) day period.

SECTION 20. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter, program plans shall contain cost containment features, which may include managed care and utilization management, to control the amount of high-cost policy losses without creating excessive adverse health care outcomes.

SECTION 21. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For each calendar year that the program is operating, every insurer shall report to the department, in a form and at the time as the department by administrative regulation may specify, the following information for that year:

(a) The insurer's total premiums in both the individual and group markets;

(b) The number of program plans in force as of December 31;

(c) The amount of the insurer's program plan premiums received during the calendar year covered by the report;

(d) The amount of the insurer's program plan claims paid during the calendar year covered by the report;

(e) The amount of the insurer's program plan losses; and

(f) Other information as the department may, by administrative regulation, require to be reported to operate the program.

(2) At the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the department shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:

(a) The amount of each reporting insurer's market share;

(b) The total amount of program plan premiums for all reporting insurers;

(c) The total amount of program plan claims paid by all reporting insurers;

(d) The amount of total actual program plan losses;

(e) The amount of the insurer's assessment or refund; and

(f) Other information as the department may elect to calculate and report.

The department shall complete its calculation and provide each insurer the results of its calculation within forty-five (45) days after the reporting deadline.

(3) The department shall assess or refund to the insurers the amounts calculated and reported in subsection (2)(e) of this section.

(4) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the amount calculated in subsection (2)(e) and assessed by the department in accordance with subsection (3) of this section.

(5) The department shall assess stop-loss carriers in accordance with subsection (3)(c) of Section 22 of this Act. The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessment provided in subsection (3)(c) of Section 22 of this Act.

(6) The department may prepare quarterly estimated calculations for the purposes of allowing insurers who participate in the program to budget for their annual assessments and refunds.

(7) The department shall conduct such examinations of insurers participating in the plan as is reasonably necessary to determine if the information provided by the insurers is accurate.

SECTION 22. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a risk adjustment process to be used in collecting and distributing funds from all insurers doing health insurance business in Kentucky for the purpose of allocating program plan losses among such insurers.

(2) As part of the risk adjustment process, the department shall establish and maintain a program account. All funds in the program account shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the

fund shall be posted to the state accounting and reporting system (STARS) and its successors.

(3) The program account shall be funded from the following sources:

(a) Appropriations from the General Assembly;

(b) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;

(c) Annual assessments from each stop-loss carrier in an amount which is equal to two dollars ($2) upon each one hundred dollars ($100) of health insurance stop-loss premiums;

(d) An assessment for each calendar year, or the last six (6) month period of 1998, on the total amount of all health benefit plan premiums written during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the assessment is based. The first assessment shall be for the period from July 1, 1998, to December 31, 1998, shall be based on the amount of health benefit plan premiums written during this six (6) month period, and the total amount of the assessment against all insurers for this six (6) month period shall equal three million nine hundred thousand dollars ($3,900,000). The percentage rate used to determine this six (6) month period assessment shall be the maximum percentage that may be used to determine the assessment in any subsequent calendar year. Assessments in any subsequent year shall be paid on or before the last day of that calendar year, and the first assessment shall be paid on or before December 31, 1998.

(e) Any special assessments under subsection 4(b) of this section;

(f) Gifts, grants, or other voluntary contributions; and

(g) Interest or other earnings on the investment of the monies held in the account.

(4) After the end of each calendar year, the department shall calculate the amount of the total actual program plan losses incurred by all insurers for the calendar year. The first calculation shall be for the calendar year ended December 31, 1998.

(a) If the amount of total actual program plan losses is less than the amount in the program account, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account.

(b) If the amount of total actual program plan losses is more than the amount in the program account, then the difference shall be considered a program account deficit, and there shall be a second assessment, in addition to the assessment under subsection 3(d) of this section, on all insurers who received any of the health benefit plan premiums on which the assessment under subsection 3(d) is based. The second assessment shall also be a percentage of the health benefit plan premiums except for the following limitations:

1. The percentage rate may not exceed the percentage rate used to determine the 1998-1999 assessment, and

2. The total amount generated from the additional assessment may not exceed the lesser of the program account deficit or seven million eight hundred thousand dollars ($7,800,000). If the second assessment fully eliminates the program account deficit, each insurer shall be reimbursed up to the amount of its proportional share of program plan losses from the program account. If the second assessment does not fully eliminate the program account deficit, each insurer shall be reimbursed up to its proportional share of program plan losses from the program account in the same proportion that the insurer's program plan losses bears to the total program plan losses of all insurers.

(5) With respect to an insurer who reasonably will be expected to both pay assessments and receive payments from the program account, the department shall calculate the net amount owed to or to be received from the program account, and the department shall only collect assessments or make payments from the program account based upon net amounts.

(6) Insurers paying an assessment may include in any health insurance rate filing that amount of such assessments as provided in Section 21 of this Act.

(7) Any surpluses remaining in the program account after completion of the risk adjustment process for a calendar year shall be maintained for use in the risk adjustment process for future calendar years and such funds shall not lapse. The General Fund appropriations to the program account shall not lapse.

(8) Assessments on health benefit plan premiums that are required under this section shall not be applied to premiums received by an insurer for Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.

SECTION 23. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with the regular session of the General Assembly in the year 2000, sixty (60) days prior to that session and each subsequent regular session of the General Assembly, the commissioner shall submit a written report to the Legislative Research Commission on the operations of the program. The report shall contain an evaluation of the program, an evaluation of issues concerning individuals with high-cost conditions, and recommendations for establishing alternative means of providing health benefit plans for those individuals in addition to, or as an alternative to, the risk adjustment mechanism of the program. In order to determine the effectiveness of the program in providing access and affordable insurance to individuals with high-cost conditions and in readjusting the risks of providing health benefit plans to such individuals, the department shall determine:

(a) The number of individuals with high-cost conditions;

(b) The number of program plans; and

(c) The reasons that any program plans are terminated.

(2) Beginning no later than June 30, 1999, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the program, and the costs of the audit shall be born by the program. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the department.

SECTION 24. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Coverage of an individual who is not a state employee or a small group which on the effective date of this Act is covered under KRS 18A.2251 or KRS 18A.2281 shall not be renewed after the effective date of this Act.

SECTION 25. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 25 to 39 of this Act, unless the context requires otherwise:

(1) "Contract holder" means an employer or organization that purchases a contract for services;

(2) "Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(3) "Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;

(4) "Enrollee" means a person who is enrolled in a managed health care plan;

(5) "Grievance" means a written complaint submitted by or on behalf of an enrollee;

(6) "Health insurance policy" means "health benefit plan" as defined in Section 1 of this Act;

(7) "Insurer" has the meaning provided in Section 1 of this Act;

(8) "Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(9) "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(10) "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(11) "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the

provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient; and

(12) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include: preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

SECTION 26. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer shall disclose in writing to an enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract, and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

- *(a) Covered services and benefits to which the enrollee or other covered person is entitled;*
- *(b) Restrictions or limitations on covered services and benefits;*
- *(c) Financial responsibility of the covered person, including copayments and deductibles;*
- *(d) Prior authorization and any other review requirements with respect to accessing covered services;*
- *(e) Where and in what manner covered services may be obtained;*
- *(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;*
- *(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;*
- *(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);*
- *(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider; and*
- *(j) Other information as the commissioner shall require by administrative regulation.*

(2) The insurer shall file the information required under this section with the department.

SECTION 27. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the disclosure requirements provided in Section 26 of this Act, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

- *(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;*
- *(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and*
- *(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care.*

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

- *(a) Whether a particular network provider is board certified; and*
- *(b) Whether a particular network provider is currently accepting new patients.*

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

SECTION 28. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available.

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

(4) A managed care plan shall cover emergency-room screening and stabilization without prior authorization as needed for conditions that reasonably appear to constitute an emergency medical condition, based on the patient's presenting symptoms. To promote continuity of care and optimal care by the treating physician, the emergency department should contact the patient's primary care physician as soon as possible.

SECTION 29. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An enrollee shall have adequate choice among participating primary care providers in a managed care plan who are accessible and qualified.

(2) A managed care plan shall permit enrollees to choose their own primary care provider from a list of health care providers within the plan. This list shall be updated as health care providers are added or removed and shall include a sufficient number of primary care providers who are accepting new enrollees.

(3) A managed care plan shall develop a system to permit an enrollee to use a participating specialist when the enrollee's medical condition warrants it.

(4) A managed care plan shall arrange for continuity of care and appropriate referral to specialists within the plan when specialty care is warranted.

(a) Enrollees shall have access to participating medical specialists on a timely basis.

(b) Enrollees shall be provided with a choice of specialists when a referral is made, where available.

(5) A managed care plan shall provide an enrollee with access to a consultation with a participating health care provider for a second opinion.

SECTION 30. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Insurers shall establish relevant, objective standards for initial consideration of providers and for providers to continue as a participating provider in the plan. Standards shall be reasonably related to services provided. Selection or participation standards based on the economics or capacity of a provider's practice shall be adjusted to account for case mix, severity of illness, patient age and other features that may account for higher-than- or lower-than-expected costs. All data profiling or other data analysis pertaining to participating providers shall be done in a manner which is valid and reasonable. Plans shall not use criteria that would allow an insurer to avoid high-risk populations by excluding providers because they are located in geographic areas that contain populations or providers presenting a risk of higher-than-average claims, losses, or health services utilization or that would exclude providers because they treat or specialize in treating populations presenting a risk of higher-than-average claims, losses, or health services utilization.

(2) Each insurer shall establish mechanisms for soliciting and acting upon applications for provider participation in the plan in a fair and systematic manner. These mechanisms shall, at a minimum, include:

(a) Allowing all providers who desire to apply for participation in the plan an opportunity to apply at any time during the year or, where an insurer does not conduct open continuous provider enrollment, conducting a provider enrollment period at least annually with the date publicized to providers located in the geographic service area of the plan at least thirty (30) days in advance of the enrollment periods; and

(b) Making criteria for provider participation in the plan available to all applicants.

(3) If a managed care plan terminates the participation of an enrollee's primary care provider, the plan shall provide notice to the enrollee and arrange for the enrollee's continuity of care with an approved primary care provider.

(4) An insurer that offers a managed care plan shall establish a policy governing the removal of and withdrawal by health care providers from the provider network that includes the following:

(a) The insurer shall inform a participating health care provider of the insurer's removal and withdrawal policy at the time the insurer contracts with the health care provider to participate in the provider network, and when changed thereafter;

(b) If a participating health care provider's participation will be terminated or withdrawn prior to the date of the termination of the contract as a result of a professional review action, the insurer and participating health care provider shall comply with the standards in 42 U.S.C. sec. 11112; and

(c) If the insurer finds that a health care provider represents an imminent danger to an individual patient or to the public health, safety, or welfare, the medical director shall promptly notify the appropriate professional state licensing board.

SECTION 31. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan may not contract with a health care provider to limit the provider's disclosure to an enrollee, or to another person on behalf of an enrollee, of any information relating to the enrollee's medical condition or treatment options.

(2) A health care provider shall not be penalized, or a health care provider's contract with a managed care plan terminated, because the provider discusses medically necessary or appropriate care with an enrollee or another person on behalf of an enrollee.

(a) The health care provider may not be prohibited by the plan from discussing all treatment options with the enrollee.

(b) Other information determined by the health care provider to be in the best interests of the enrollee may be disclosed by the provider to the enrollee, or to another person on behalf of an enrollee.

(3) (a) A health care provider shall not be penalized for discussing financial incentives and financial arrangements between the provider and the insurer with an enrollee.

(b) Upon request, a managed care plan shall inform its enrollees in writing of the type of financial arrangements between the plan and participating providers if those arrangements include an incentive or bonus.

SECTION 32. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute" and no substitution shall be made without the provider's approval.

SECTION 33. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer that limits coverage for any treatment, procedure, drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, drug or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;

3. A description of other alternative treatment, services, or supplies covered by the plan, if any; and

4. Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, procedure, drug, or device is involved;

2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;

3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and

4. Twenty (20) working days of the initiation of the review process in all other instances.

SECTION 34. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan shall appoint a medical director who is a physician licensed to practice in Kentucky or a contiguous state, and who shall be responsible for the treatment policies, protocols, quality assurance activities, and utilization management decisions of the plan.

(2) The medical director shall ensure that:

(a) Any utilization management decision to deny, reduce, or terminate a health care benefit or to deny payment for a health care service, because that service is not medically necessary, shall be made by a physician, except in the case of a health care service rendered by a chiropractor or optometrist, that decision shall be made respectively by a chiropractor or optometrist duly licensed in Kentucky;

(b) A utilization management decision shall not retrospectively deny coverage for health care services provided to a covered person when prior approval has been obtained from the insurer for those services, unless the approval was based upon fraudulent, materially inaccurate, or misrepresented information submitted by the covered person or the participating provider;

(c) In the case of a managed care plan, a procedure is implemented whereby participating physicians have an opportunity to review and comment on all medical and surgical and emergency room protocols, respectively, of the insurer and whereby other participating providers have an opportunity to review and comment on all of the insurer's protocols that are within the provider's legally authorized scope of practice;

(d) The utilization management program is available to respond to authorization requests for urgent services and is available, at a minimum, during normal working hours for inquiries and authorization requests for nonurgent health care services; and

(e) In the case of a managed care plan, a covered person is permitted to choose or change a primary care provider from among participating providers in the provider network, and, when appropriate, choose a specialist from among participating network providers following an authorized referral, if required by the insurer, and subject to the ability of the specialist to accept new patients.

(3) A managed care plan shall develop comprehensive quality assurance or improvement standards adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of health care services. These standards shall be made available to the public during regular business hours and include:

(a) An ongoing written, internal quality assurance or improvement program;

(b) Specific written guidelines for quality of care studies and monitoring, including attention to vulnerable populations;

(c) Performance and clinical outcomes-based criteria;

(d) A procedure for remedial action to correct quality problems, including written procedures for taking appropriate corrective action;

(e) A plan for data gathering and assessment; and

(f) A peer review process.

(4) Each managed care plan shall have a process for the selection of health care providers who will be on the plan's list of participating providers, with written policies and procedures for review and approval used by the plan.

(a) The plan shall establish minimum professional requirements for participating health care providers. An insurer may not discriminate against a provider solely on the basis of the provider's license by the state;

(b) The plan shall demonstrate that it has consulted with appropriately qualified health care providers to establish the minimum professional requirements;

(c) The plan's selection process shall include verification of each health care provider's license, history of license suspension or revocation, and liability claims history;

(d) A managed care plan shall establish a formal written, ongoing process for the reevaluation of each participating health care provider within a specified number of years after the provider's initial acceptance into the plan. The reevaluation shall include an update of the previous review criteria and an assessment of the provider's performance pattern based on criteria such as enrollee clinical outcomes, number of complaints, and malpractice actions.

(5) A managed care plan shall not use a health care provider beyond, or outside of, the provider's legally authorized scope of practice.

SECTION 35. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer that offers a managed care plan shall offer a benefit plan with out-of-network benefits to every contract holder that would allow a covered person to receive covered services from out-of-network health care providers without having to obtain a referral. The plan with out-of-network benefits may require that an enrollee pre-certify selected services and pay a higher deductible, copayment, coinsurance, excess charges and higher premium for the out-of-network benefit plan pursuant to limits established by administrative regulations promulgated by the department.

(2) An insurer shall provide each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits, with the opportunity at the time of enrollment and during the annual open enrollment period, to enroll in the out-of-network option. The insurer and employer group shall provide written notice of the benefit plan with out-of-network benefits to each enrollee in a plan whose employer group elects the benefit plan with out-of-network benefits and shall include in that notice a detailed explanation of the financial costs to be incurred by an enrollee who selects the plan.

(3) The requirement of this section shall not apply to an insurer contract which offers a managed care plan that provides health care services solely to Medicaid or Medicare recipients.

(4) Managed care plans currently licensed and doing business in Kentucky that do not yet offer benefit plans with out-of-network benefits must develop and offer those plans within three hundred sixty-five (365) days of the effective date of this Act.

SECTION 36. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is hereby recognized a patient's right of privacy in the content of a patient's record and communications between a patient and a health care provider with regard to mental health or chemical dependency.

(1) An insurer may request the provider to furnish the insurer only such limited information concerning the patient from a patient's record as is necessary for determining covered services and benefits, medical necessity, appropriateness, and quality of care for authorization or continuation of mental health and chemical dependency health services to be provided to the patient, or for payment for those services.

(2) No third party to whom disclosure of patient records is made by a provider may redisclose or otherwise reveal the mental health and chemical dependency records of a patient, beyond the purpose for which the disclosure was made, without first obtaining the patient's specific written consent to the redisclosure.

SECTION 37. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance contract with a provider shall contain a most-favored-nation provision except where the commissioner determines that the market share of the insurer is nominal.

(2) Nothing in this section shall be construed to prohibit a health insurer and a provider from negotiating payment rates and performance-based contract terms that would result in the health insurer receiving a rate that is as favorable, or more favorable, than the rates negotiated between a provider and other health insurance issuers.

SECTION 38. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner shall enforce the provisions of Sections 25 to 39 of this Act and shall adopt administrative regulations necessary to carry out the provisions of Sections 25 to 39 of this Act.

SECTION 39. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No health insurance contract or certificate subject to the provisions of this subtitle shall be delivered, issued, executed, or renewed on or after the date ninety (90) days after the effective date of this Act, unless it and the insurer meet the requirements of Sections 25 to 39 of this Act.

SECTION 40. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No employer-organized association shall in this state self-insure in order to provide health benefit plans for its members unless it holds a certificate of filing from the commissioner.

(2) To qualify for a certificate of filing and to maintain a certificate of filing the employer-organized association shall comply with the provisions of Subtitle 48 of this chapter to the extent not in conflict with the expressed provisions of this section.

(3) Each association that holds a certificate of filing from the commissioner shall be subject to the following:

  (a) All assessments placed on insurers under Section 21 of this Act;

  (b) All rating restrictions placed on employer-organized associations under Section 11 of this Act;

  (c) All rate review requirements placed on insurers under this subtitle;

  (d) All data collection requirements placed on insurers under this subtitle; and

  (e) Provisions of Subtitle 12 of this chapter that apply to health insurers.

(4) Each association that holds a certificate of filing from the commissioner shall notify its members that health benefit plans issued to its members through the association are not protected through the Kentucky Life and Health Insurance Guaranty Association.

(5) Under the provisions of KRS 304.48-220, the commissioner may revoke the certificate of filing of any association. A violation of any provision of this section shall be deemed a violation of Subtitle 48 of this chapter for purposes of KRS 304.48-220.

SECTION 41. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by March 30 to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

  (a) Total cost per health and medical service per insured group per month:

    1. Cost paid by insurer;

    2. Cost paid by insured; and

  (b) Percentage of insured who received each service.

SECTION 42. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "mandated health benefit" means any requirement that any health benefit plan provide a specified benefit, include a specified coverage, pay, indemnify, or reimburse for a specified medical service, or impose or regulate provisions concerning specified health care providers.

(2) On and after the effective date of this Act, in the General Assembly, a sponsor of a bill and any member proposing an amendment to a bill that contains a mandated health benefit shall submit to the standing committee to which the bill has been referred a financial impact statement on health insurance coverage rates before final consideration by the committee.

(3) Upon request of a standing committee of the General Assembly, the commissioner of the Department of Insurance shall review any financial impact statement filed with the committee and report the results of the review to the committee.

SECTION 43. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

There is created within the department a consumer protection and education division, which shall include an office of ombudsman.

Section 44. KRS 304.17A-150 is amended to read as follows:

(1) On and after July 15, 1995, it is an unfair trade practice for an insurer~~[as defined in KRS 304.17A-100]~~, agent, broker, or any other person in the business of marketing and selling health plans, to commit or perform any of the following acts:

 (a) Encourage individuals or groups to refrain from filing an application for coverage with the insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

 (b) Encourage or direct individuals or groups to seek coverage from another insurer because of the individual's or group's health status, claims experience, industry, occupation, or geographic location; or

 (c) Encourage an employer to exclude an employee from coverage.

The provisions of paragraphs (a) and (b) of this subsection shall not apply to information provided regarding the established geographic service area of an insurer.

(2) It is an unfair trade practice for an insurer to compensate an agent, broker, or any other person in the business of marketing and selling health plans on the basis of the health status, claims experience, industry, occupation, or geographic location of the insured or prospective insured.

(3) ***It shall constitute an unfair trade practice for any insurer, insurance agent, or third-party administrator to refer an individual employee to the Kentucky guaranteed acceptance program or to arrange for an individual employee to apply to that plan, for the purpose of separating an employee from group health insurance coverage provided in connection with the individual's employment.***

(4) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any insurer that fails to pay an assessment under Section 22 of this Act. As an alternative, the commissioner may levy a civil penalty on any member insurer that fails to pay the assessment when due. The civil penalty shall not exceed five percent (5%) of the unpaid assessment per month, but no civil penalty shall be less than one hundred dollars ($100) per month.

(5) The remedy provided by KRS 304.12-120 shall be available for conduct proscribed by subsections (1) and (2) of this section.

Section 45. KRS 304.14-130 is amended to read as follows:

(1) The commissioner shall disapprove any form filed under KRS 304.14-120, or withdraw any previous approval thereof, only on one (1) or more of the following grounds:

 (a) If it is in any respect in violation of, or does not comply with, this code.

 (b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract.

 (c) If it has any title, heading, or other indication of its provisions which is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

 (d) If it excludes coverage for human immunodeficiency virus infection or acquired immunodeficiency syndrome or contains limitations in the benefits payable, or in the terms or conditions of the contract, for human immunodeficiency virus infection or acquired immunodeficiency syndrome which are different than those which apply to any other sickness or medical condition.

 (e) As to an individual health insurance policy, if the benefits provided therein are unreasonable in relation to the premium charged.

(2) The insurer shall not use in this state any such form after disapproval or withdrawal of approval.

Section 46. KRS 304.18-050 is amended to read as follows:

[~~(1)~~]Any contract of group health insurance may provide for the readjustment of the rate of premium based upon the experience thereunder.[

~~(2) Notwithstanding any other provision of any subtitle of this chapter, any standard health benefit plan or contract of group health insurance issued to an eligible association shall not be required to determine the amount or rate of premium thereunder using a community rating methodology or a modified community rating methodology and may determine the amount or rate of premium based upon the experience or projected experience thereunder without restriction.~~

~~(3) As used in this section, "eligible association" means an organization which meets all of the following criteria:~~

- ~~(a) Was in existence on January 30, 1996;~~
- ~~(b) Is either an association within the meaning of KRS 304.18-020(1)(b) or the trustees of a fund established by one (1) or more associations within the meaning of KRS 304.18-020(1)(c);~~
- ~~(c) Does not deny membership in the organization on the basis of health status or claims experience;~~
- ~~(d) Does not exclude members or employees of members or their dependents from eligibility under any standard health benefit plan or contract of group health insurance purchased by the organization on the basis of health status or claims experience; and~~
- ~~(e) Complies with those provisions of Subtitle 17A of this chapter, if any, relating to the renewability or portability of health benefit plans, coverage of pre-existing conditions, and issuance on a guaranteed-issue basis but is not required to comply with any other provisions of Subtitle 17A of this chapter.~~

~~(4) If an organization is otherwise qualified under the criteria of subsection (3) of this section but which, as of January 30, 1996, does not offer group health insurance to its members, the organization shall be prohibited from offering any group health insurance program unless, by September 1, 1996, it has applied for approval from the Department of Insurance pursuant to Subtitle 18 of this chapter and the applicable administrative regulations promulgated under that subtitle.~~

~~(5) Eligible associations that purchase, put together, or assist in purchasing any standard health benefit plan or policy of group health insurance authorized or permitted under this section shall not be considered, for any purpose under this chapter, to be discriminating in their activities based on health status or historical or projected claims experience.~~

~~(6)~~]If a policy dividend is declared or a reduction in rate is made or continued for the first or any subsequent year of insurance under any policy of group health insurance issued prior to or after June 18, 1970, to any policyholder, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer or insured persons, or by a union or association to which the insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

[~~(7) Without limiting the general application of this section, the provisions of this section shall apply to any standard health benefit plan or contract of group health insurance issued to an eligible association and which is issued by a health maintenance organization holding a certificate of authority issued pursuant to Subtitle 38 of this chapter.~~]

Section 47. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to ***any rates filed under Subtitle 17A of this chapter,***[~~standard health care benefit plans established under KRS 304.17A-160, or to~~] surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner. As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages the filing required by this subsection may be made by rating organizations on behalf of its members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and

in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied~~, or~~ the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

Section 48. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 3 -- Authorization of Insurers and General Requirements;
(4) Subtitle 4 -- Fees and Taxes;
(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 7 -- Investments;
(7) Subtitle 12 -- Trade Practices and Frauds;
(8) Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(9) Subtitle 17A -- Health Benefit Plans;
(10)[~~ Subtitle 18 -- KRS 304.18-050;~~
~~(11)~~] Subtitle 25 -- Continuity of Management;
(11)[~~(12)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(12)[~~(13)~~] Subtitle 37 -- Insurance Holding Company Systems; and
(13)[~~(14)~~] Subtitle 99 -- Penalties.

[~~The provisions of KRS 304.18-050 are hereby declared not to be in conflict with the expressed provisions of this subtitle.~~]

Section 49. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose ***duties***[~~duty~~] shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:
  (a) Two (2) representatives of insurers currently offering health benefit plans in the state;
  (b) Two (2) practicing health care providers; and
  (c) Two (2) representatives of purchasers of health benefit plans.

(3) ***The council shall***[~~At least quarterly, but not more often than six (6) times per year, the commissioner shall convene a meeting of the Health Insurance Advisory Council to review and discuss any of the following~~]:
  (a) ***Review and discuss*** the design of the standard health benefit ***plan***[~~plans pursuant to KRS 304.17A-160~~];
  (b) ***Review and discuss*** the rate-filing process for all health benefit plans;
  (c)[~~ The definition of high-risk conditions;~~
  ~~(d)~~] ***Review and discuss*** the administrative regulations concerning this subtitle to be promulgated by the department;[~~ and~~]
  (d)[~~(e)~~]***Make recommendations on high-cost conditions as provided in subsection (5) of this section; and***
  (e) ***Review and discuss*** other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative

services required by the advisory council in the performance of the functions established in this section.

(5) ***No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under Sections 1(20) and 14 of this Act and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.***

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section[~~The Health Insurance Advisory Council created pursuant to this section may at any time review the standard health benefit plans and supplemental plans in effect on July 15, 1996, and may recommend to the commissioner changes to or replacements for any or all of those plans. The council may recommend additional standard health benefit plans and supplemental plans. The commissioner shall review the proposed plan, make whatever changes the commissioner deems necessary, and give final approval within thirty (30) days of receipt of the council's recommendation. The standard health benefit plans and supplemental plans shall become available for filing upon final approval of the commissioner~~].

Section 50. KRS 304.17A-145 is amended to read as follows:

(1) A health benefit plan[~~, as defined in KRS 304.17A-100,~~] issued or renewed on or after July 15, 1996, that provides maternity coverage shall provide coverage for inpatient care for a mother and her newly-born child for a minimum of forty-eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours after delivery by Cesarean section.

(2) The provisions of subsection (1) of this section shall not apply to a health benefit plan if the health benefit plan authorizes an initial postpartum home visit which would include the collection of an adequate sample for the hereditary and metabolic newborn screening, and if the attending physician, with the consent of the mother of the newly-born child, authorizes a shorter length of stay than that required of health benefit plans in subsection (1) of this section upon the physician's determination that the mother and newborn meet the criteria for medical stability in the most current version of "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Section 51. KRS 304.17A-170 is amended to read as follows:

As used in this section and KRS 304.17A-171, unless the context requires otherwise:

(1) [~~(a)~~]"Health benefit plan" ***has the meaning provided in Section 1 of this Act***[~~means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; and standard and supplemental health benefit plan as established in KRS 304.17A-160, which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky.~~

~~(b) "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance or, upon approval by the Kentucky Health Policy Board, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, or conversion policies for group health policies existing on January 1, 1994, if the board determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the board pursuant to KRS 304.17A-160~~].

(2) "Primary chiropractic provider" means a chiropractor licensed pursuant to KRS Chapter 312 who has been selected by a person covered by a health benefit plan to provide chiropractic service and who agrees to provide within the statutory scope of their respective practices these services in accordance with the terms, conditions, reimbursement rates, and standards of quality as set forth within the specific health benefit plan.

(3) "Participating chiropractic provider" means a primary chiropractic provider who has contracted with a health insurer to provide chiropractic services within the proper scope of practice to persons insured under the health benefit plan of the insurer.

(4) "Chiropractic benefits" means those services that are provided by a primary chiropractic provider who is functioning within the statutory scope of practice.

(5) "Gatekeeper system" means a system of administration used by any health benefit plan in which a primary care provider

furnishes basic patient care and coordinates diagnostic testing, indicated treatment, and specialty referral for persons covered by the health benefit plan.

(6) "Gatekeeper" means a covered person's primary care provider in a gatekeeper system.

(7) "Health care insurer" means any entity, including but not limited to insurance companies, hospital and medical services corporations, health maintenance organizations, preferred provider organizations, and physician hospital organizations, that is authorized by the state of Kentucky to offer or provide health benefit plans, policies, subscriber contracts, or any other contracts of similar nature which indemnify or compensate health care providers for the provision of health care services.

(8) "Covered persons" means any individual or family who is enrolled in a health benefit plan or policy from a health care insurer and on whose behalf the health care insurer is obligated to pay for or provide chiropractic services.

(9) "Covered service" means those health care services including chiropractic services which the health care insurer is obligated to pay for or provide to covered persons under the health benefit plan or policy or pursuant to KRS 304.17-305 or 304.18-095.

Section 52. KRS 304.38-050 is amended to read as follows:

(1) No health maintenance organization shall deliver or issue for delivery in this state any contract describing health benefits available, or any endorsement, rider, or application which becomes a part thereof, or any amendments thereto or modifications thereof, or the schedule of fees or other periodic charges to be paid by enrollees, until a copy of the form has been filed with and approved by the commissioner. Each form shall contain a complete and clear statement of:

(a) The health care services to which the enrollee is entitled;

(b) Any limitations on the services, kind of services, benefits to be provided, including any deductible or copayment feature;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of health care services.

Any schedule of fees or other periodic charges to be paid by enrollees submitted to and filed with the commissioner along with adequate supporting information to show that the charges or fees are not excessive, inadequate, or unfairly discriminatory.

(2) At the expiration of sixty (60) days, the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner, or a hearing has been scheduled by order of the commissioner. In the event that a hearing is held, the sixty (60) day waiting period shall begin anew after the close of the hearing. Approval of the form by the commissioner shall constitute a waiver of any unexpired portion of the waiting period. The commissioner may extend by not more than an additional thirty (30) day period within which he may affirmatively approve or disapprove the form by giving notice to the insurer of the extension before expiration of the initial sixty (60) day period. At the expiration of the period as so extended, and in the absence of the prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may at any time withdraw the approval.

(3) This section shall not apply to rate filings made under Subtitle 17A of this chapter.

Section 53. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

(a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;

(b) Apply for and accept any funds, property, or services from any person or government agency;

(c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and

(d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

(a) Publish and make available information that relates to the health care financing and delivery system, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;

(b) Periodically participate in or conduct analyses and studies that relate to:

1. Health care costs;

2. Health care quality and outcomes;

3. Health care providers and health services;

4. Health insurance costs; and

5. The cost of health benefits covered by[~~ motor vehicle insurance and~~] workers' compensation insurance;

(c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;

(d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and

(e) Appoint a permanent advisory committee to define quality outcome measurements and to advise the cabinet on technical matters including proper interpretation of the data and the manner in which it should be published.

(3)[~~All insurers and self-insurers authorized to write motor vehicle, workers' compensation, or health insurance in this state shall transmit at least annually by March 30 to the Department of Insurance the following information on their insurance experience in this state for the preceding calendar year:~~

~~(a) Total premiums paid;~~

~~(b) Total cost of claims filed and paid;~~

~~(c) Total cost of health and medical claims paid for by motor vehicle insurance and by workers' compensation insurance;~~

~~(d) Total policies canceled by type and the aggregate reasons therefor;~~

~~(e) List of total health and medical services paid for, grouped by types of services and costs:~~

~~1. Total cost per health and medical service per insured group per month;~~

~~a. Cost paid by insurer;~~

~~b. Cost paid by insured; and~~

~~2. Percentage of insureds who received each service.~~

~~If the secretary finds it necessary for the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may require quarterly transmission to the cabinet of the information specified under paragraphs (a) to (e) of this subsection. Nothing in this subsection shall prohibit the cabinet from requesting nonidentifying specific claims data for the purpose of identifying expenditure trends for health and medical claims and developing approaches to cost containment.~~

~~(4)~~] The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars ($500) for each violation for knowingly failing to file a report as required. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 54. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the state employee benefit fund established under KRS 18A.2281.

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) ~~[(a) "Mandatory alliance member" means:~~

~~1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225 to 18A.229;~~

~~2. Elected and salaried employees of local school districts;~~

~~3. Employees of local and district health departments;~~

~~4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and~~

~~5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:~~

~~a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and~~

~~b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.~~

~~(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means~~

~~only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.~~

~~(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.~~

~~(18)~~]"Medical outcomes" means a change in an individual's health status after the provision of health services.

(18)[~~(19)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(19)[~~(20)~~] "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(20)[~~(21)~~] "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(21)[~~(22)~~] "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(22)[~~(23)~~] "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts***;***

(f) Any person for whom the Commonwealth provides health insurance under KRS 18A.225 to 18A.229; or

(g) Elected and salaried employees of local school districts; or

(h) Employees of local and district health departments; or

(i) Justice, judges, clerks, deputy clerk, and all other employees of the Judicial Department.

Section 55. KRS 304.12-085 is amended to read as follows:

(1) No person shall, whether acting for himself or another in connection with an insurance transaction, fail or refuse to issue or renew insurance to any person because of race, color, religion, national origin, or sex except that rates determined through valid actuarial tables shall not be violative of KRS Chapter 344.

(2) In the case of benefits consisting of medical care provided under, offered by, or in connection with a group or individual health benefit plan, the plan or insurer may not deny, cancel, or refuse to renew the benefits or coverage, or vary the premiums, terms, or conditions for the benefits or coverage, for any participant or beneficiary under the plan:

(a) On the basis of a genetic test, for which symptoms have not manifested; or

(b) On the basis that the participant or beneficiary has requested or received genetic services.

(3) A group or individual health benefit plan or insurer offering health insurance in connection with a health benefit plan may not request or require a participant or beneficiary to disclose to the plan or insurer any genetic test about the participant, beneficiary, or applicant.

(4) A group or individual health benefit plan or insurer offering health insurance in connection with a health benefit plan may not disclose any genetic test about a participant or beneficiary without prior authorization by the participant. The authorization is required for each disclosure.

(5) For purposes of this section, unless the context requires otherwise:

(a) "Health benefit plan" has the meaning given it in Section 1 of this Act; and

(b) "Insurer" has the meaning given it in Section 1 of this Act.

Section 56. KRS 304.38-080 is amended to read as follows:

(1) Each enrollee residing in this state shall be entitled to evidence of health care services provided and the same shall be

issued and delivered to him by the health maintenance organization, be it in the form of a contract, certificate, or other comparable document. Such evidence shall state clearly the total amount of payment for health care services and any indemnity or service benefits which the enrollee is obligated to pay with respect to such health care services.

(2) Each health maintenance organization shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursement; and

(b) A current description of its organizational structure and operation.

[~~(3) After a health maintenance organization has been in operation for twenty-four (24) months, it shall have an open enrollment period at least every year under which it accepts enrollees up to the limits of its capacity, as determined by the health maintenance organization, in the order in which they apply for enrollment, except as may be otherwise determined and authorized by the commissioner. Such organization may apply to the commissioner for authorization to impose such underwriting restrictions upon enrollment as are necessary to preserve its financial stability, to prevent excessive adverse selection by prospective enrollees, or to avoid unreasonably high or unreasonable charges for enrollee coverage for health care service; which application the commissioner shall approve or deny within fifteen (15) days of the receipt thereof from such organization.~~]

Section 57. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1995, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 1995, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;[~~ and~~]

(i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

2. The "applicable amount" shall be:

a. Twenty-five percent (25%), but not more than six thousand two hundred and fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code***; and***

(j) Exclude for taxable years beginning after December 31, 1997, to the extent not already excluded from gross income, any amounts paid during the taxable year for health insurance which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding

exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 58. The following KRS section is repealed:

304.17A-090 Commissioner's review of rates and charges filed between July 15, 1995, and July 15, 1996 -- Refunds -- Suspension of certificate of authority -- Notification of review.

Section 59. Effective July 1, 1999, the following KRS sections are repealed:

304.17A-010 Definitions for KRS 304.17A-010 to 304.17A-070.

304.17A-020 Kentucky Health Purchasing Alliance -- Regional advisory boards.

304.17A-030 Duties of the Kentucky Health Purchasing Alliance.

304.17A-040 Conditions of participation in the alliance.

304.17A-050 Duties of the Department of Insurance with respect to the alliance.

304.17A-060 Supervision of alliance by department relative to antitrust laws.

304.17A-070 Creation of accountable health plans -- Certification.

304.17A-100 Definitions for KRS 304.17A-100 to 304.17A-160 and KRS 304.18-023.

304.17A-110 Requirement of compliance with specified conditions regarding renewability and pre-existing conditions.

304.17A-120 Use of approved modified rating methodology required for issuance or renewal of plans -- Geographic rating areas -- Exemption -- Permitted deviation from index community rates.

304.17A-160 Standard health benefit plans -- Written agreement required before provider may be represented as participating.

Section 60. To carry out the purposes of this Act, there is appropriated to the Kentucky Guaranteed Acceptance Program account out of the general fund in the State Treasury the sum of ten million dollars ($10,000,000) for fiscal year 1997-1998.

Section 61. Whereas the competition in the health insurance market in Kentucky has diminished since the enactment of legislation in 1994 to the disadvantage of residents of the Commonwealth, and premium rates have increased, which has made coverage less affordable for some Kentuckians, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 83, HB 233, HB 250, HB 306, HB 175,** and **HB 315** have been posted for passage in the Orders of the Day for February 4, 1998.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 263**, by Representative Heleringer:

On page 10, line 19, after the word "No" by deleting the word "***owner,***"; and

On page 10, line 20, after the word "manufacturer" by deleting the words "***or their affiliates, and no member of the immediate family of an***"; and

On page 10, by deleting line 21 in its entirety; and

On page 10, line 22 by deleting the words "***manufacturer or their affiliates,***".

Floor Amendment No. 1 Title to **HB 226**, by Representative J. Adams:

"By amending the title to read as follows: AN ACT relating to check cashing and deferred deposit transactions."

Floor Amendment No. 1 to **SB 26**, by Representative Nunn:

On page 3, by deleting line 22 through page 4 line 9, and by inserting in lieu thereof the following:

Section 3. KRS 18A.990 is amended to read as follows:

(1) Any person who willfully violates any provision of KRS 18A.005 to 18A.200***, except for Section 1 of this Act,*** or of the ***administrative regulations promulgated thereunder***~~[rules]~~ shall be guilty of a misdemeanor, and shall upon conviction be punished therefor with a sentence of from thirty (30) days to a maximum of six (6) months in jail.

(2) Any person who is convicted of a misdemeanor under KRS 18A.005 to 18A.200***, except for Section 1 of this Act,*** shall, for a period of five (5) years, be ineligible for appointment to or employment in a position by the Commonwealth, and if he***or she*** is an officer or employee of the Commonwealth, shall forfeit his***or her*** office or position.

(3) Any ***person***~~[officer or employee of the classified service]~~ who willfully violates any of the provisions of KRS 18A.140 shall ~~[forfeit his office or position, and]~~for ***five (5) years***~~[one (1) year shall]~~ be ineligible for any office or position in the Commonwealth's service***and shall, if the person is an officer or employee of the classified service, forfeit his or her office or position***. ***In addition,*** violation of KRS 18A.140 shall ***result***~~[constitute a misdemeanor subject to a sentence of from thirty (30) days to a maximum of six (6) months]~~ in ***a*** jail***term of not less than two (2) year and not more than five (5) years, and a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000)***.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

Any person, or any employee as defined in this chapter, who willfully violates any provision of Section 2 of this Act or of the administrative regulations promulgated thereunder shall for five (5) years be ineligible for any office or position in the Commonwealth's service and shall, if the person is an employee, as defined in this chapter, forfeit his or her office or position. In addition, violation of Section 2 of this Act shall result in a jail term of not less than two (2) years and not more than five (5) years in jail, and a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

Orders of the Day

HB 37, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Colter moved the adoption of the Committee Substitute to **HB 37**. Agreed.

Representative Colter moved that **HB 37**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 3 (See February 3, 1998 roll call on **HB 37** - Appendix.) **HB 37**, by way of Committee Substitute, was passed. Representative Colter moved the adoption of Committee Amendment No. 1 Title to **HB 37**. Agreed; and the title was agreed to. Representative Colter moved that the vote by which **HB 37**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 304, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Floor Amendment No. 1 to **HB 304**. Agreed.

Representative Marzian moved that **HB 304**, as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 18 (See February 3, 1998 roll call on **HB 304** - Appendix.) **HB 304**, as amended, was passed and the title agreed to. Representative Marzian moved that the vote by which **HB 304**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 4**, by Representative Hogancamp:

On page 8, between lines 3 and 4, by inserting the following:

"***(5) To conduct an inspection of marina pumpout facilities, department officers or employees shall first obtain permission from the marina owner or a marina employee. The inspection shall be conducted during the marina's normal business hours.***"

Orders of the Day (Continued)

HB 4, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 4**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 4**. Rejected.

Representative Riggs moved that the vote by which Floor Amendment No. 1 to the Committee Substitute to **HB 4** was rejected be reconsidered. The motion that the vote by which Floor Amendment No. 1 to the Committee Substitute to **HB 4** was rejected be reconsidered was adopted. (See February 02, 1998 roll call on Motion to Reconsider Floor Amendment No. 1 to the Committee Substitute to **HB 4** - Appendix)

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 4**. Floor Amendment No. 1 to the Committee Substitute to **HB 4** was adopted. (See February 02, 1998 roll call on adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 4** - Appendix)

Representative Nunn moved that **HB 4**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 3 (See February 3, 1998 roll call on **HB** 4 - Appendix.) **HB 4**, by way of Committee Substitute as amended, was passed and the title agreed to. Representative Nunn moved that the vote by which **HB 4**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 234**, by Representative Damron:

On Page 80, after line 26, by inserting the following,

"Section 26. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any member of the Kentucky Employees Retirement System age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any member of the Kentucky Employees Retirement System or the State Police Retirement System who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment as defined in KRS 61.510. Payment shall be made by the same methods set forth in subsection (6) of this section, and the delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited in the individual member's account.

Section 17. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, ***or service in the military reserves of the United States or the National Guard,*** subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service ***or service in the military reserves of the United States or the National Guard*** includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service ***or service in the military reserves*** may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but [~~in no case~~]a greater number of years ***shall not be credited*** than the actual years of contributing service in Kentucky. ***A member may purchase one (1) month of service for each six (6) months of service in the military reserves or the National Guard.***

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States***, or service in the military reserves of the United States or the National Guard,*** prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward

retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid."

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 170** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:23 p.m.)

Orders of the Day (Continued)

HB 284 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 284** be passed.

On the roll call the vote was: Yeas 93, Nays 0 (See February 3 , 1998 roll call on **HB 284** - Appendix.) **HB 284** was passed and the title agreed to. Representative Stumbo moved that the vote by which **HB 284** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 Title to **HB 226**, by Representative Coleman:

"By amending the title to read as follows: AN ACT relating to check cashing and deferred deposit transactions and declaring an emergency."

Orders of the Day (Continued)

HB 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 15** be passed.

On the roll call the vote was: Yeas 96, Nays 0 (See February 3 , 1998 roll call on **HB 15** - Appendix.) **HB 15** was passed and the title agreed to. Representative Geveden moved that the vote by which **HB 15** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 197 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 197** be passed.

Representative Maricle moved that the rules be suspended to lay **HB 197** on the Clerk's Desk. The motion that **HB 197** be laid on the Clerk's Desk was rejected. (See February 02, 1998 roll call on motion to lay **HB 197** on the Clerk's Desk - Appendix)

On the roll call on the passage of **HB 197** the vote was: Yeas 60, Nays 35 (See February 3 , 1998 roll call on **HB 197** - Appendix.) **HB 197** was passed and the title agreed to. Representative Long moved that the vote by which **HB 197** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Stumbo moved the adoption of the following **Legislative Citation No. 55**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby extends its sincerest recognition and highest regard for Sue Wylie who is recognized across the Commonwealth as a media icon of political analysis with her award-winning, gutsy, direct format through "Your Government," for twenty-five years on WLEX-TV, Channel 18. Sue Wylie has commanded a major role in the development of political commentary in Kentucky not only with her current show but with her very astute and creative handling of "Noon Today," which she produced and co-anchored for twenty-three years. Sue Wylie's direct approach with many Governors and policy-makers in Kentucky has earned her the respect and admiration of those she interviewed, and her impending retirement is viewed with a mix of good wishes and wistful reminiscence. The Kentucky House of Representatives does recognize the extraordinary talents of this remarkable journalist and wishes that retirement might be just as challenging and satisfying as her glittering career. **Legislative Citation No. 55** was adopted without objection. (See February 02, 1998 co-sponsor roll calls - Appendix)

Motions, Petitions and Communications

Representative Stumbo moved that **HB 449** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 488, by Representative Scott: AN ACT relating to forest fire prevention.

HB 489, by Representatives Miller, Weaver, Jenkins, L. Clark, Polston, P. Clark, Murgatroyd, J. Adams, Bruce, Callahan, Horlander, Gray, and Maricle: AN ACT relating to visitation rights.

HB 490, by Representative Lovell: AN ACT relating to the transportation of incarcerated persons.

HB 491, by Representative Riggs: AN ACT relating to bank branches.

HB 492, by Representative Wayne: AN ACT relating to executive branch ethics.

HB 493, by Representatives Vincent, Wilkey, Heleringer, Hoover, Yonts, and Bowling: AN ACT relating to insurance.

HB 494, by Representatives Gooch, Yonts, Jenkins, Gray, Anderson, P. Clark, Horlander, Hoffman, Heleringer, Wayne, Burch, Bratcher, Jordan, Adkins, Mason, Geveden, Nesler, Stumbo, Ballard, Riggs, Bruce, Pope, and Siler: AN ACT relating to the Kentucky Community and Technical College System.

HB 495, by Representative Gooch: AN ACT relating to traffic regulations.

HB 496, by Representative Gooch: AN ACT relating to insurance.

HJR 63, by Representatives D. Graham, Thomas and McKee: A JOINT RESOLUTION authorizing and directing a comprehensive study of the feasibility of creating regional agricultural marketing centers in Kentucky, and making an appropriation therefor.

HR 64, by Representative Burch: A RESOLUTION adjourning the House of Representatives in honor of John Clayton upon the occasion of his imminent retirement.

Report of Committees (Continued)

The Committee on State Government reported **HB 309**, with Committee Substitute attached thereto, **HB 336, HB 340**, with Committee Substitute attached thereto, **HB 343, HB 356, HB 357**, with Committee Amendment attached thereto, **HB 358, HB 364, HB 365, HB 383**, with Committee Substitute attached thereto, **HB 392**, with Committee Substitute attached thereto, **HB 422**, with Committee Substitute attached thereto, **HCR 9, HCR 10, HCR 32, HCR 45, HCR 46**, and **SB 1** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 309, AN ACT relating to the state property and buildings commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.520 is amended to read as follows:

(1) The commission may issue and sell revenue or other authorized bonds, in carrying out the provisions of this chapter, in denominations and amounts, as is deemed to be for the best interest of the Commonwealth, for any of the following purposes:
  (a) To acquire real estate for state governmental use;
  (b) To pay all or any part of the expense or cost of or incidental to a building project for state governmental use;
  (c) To defray the cost of plans, specifications, blueprints, architectural fees, and other expenses authorized to be incurred for state governmental use.

(2) The payment of bonds issued, together with the interest thereon, may be secured by a pledge and a first lien on all of the

receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Neither the payment of any bond, nor the interest thereon issued under the authority of KRS Chapter 56, shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any bond or interest thereon be payable out of any fund except funds derived from rentals or other revenues derived from the operation of the properties or from revenues as are available for the purpose by law.

(3) All competitive bids for the sale of revenue bonds shall be opened and read publicly by the secretary of the Finance and Administration Cabinet or his representative at a designated place, day, and hour, all of which shall be announced in the advertising made relative thereto.

(4) In the event the commission issues and sells bonds for a building project as authorized by KRS Chapter 56, insurance, including fire and windstorm, casualty, catastrophe, use and occupancy, and such other insurance as the commission may deem advisable, shall be carried in connection with the building project, and it may so obligate and bind itself in a trust indenture securing the payment of the bonds. Any insurance shall be paid for out of funds available for the project.

(5) ***The commission may invest proceeds from the sale of its revenue or other authorized bonds*** as provided in KRS 42.500[~~, the commission may invest proceeds from the sale of its revenue or other authorized bonds as follows:~~

~~(a) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;~~

~~(b) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Services;~~

~~(c) Obligations for the Commonwealth of Kentucky;~~

~~(d) Bonds and notes of any state or local government or public authority;~~

~~(e) Savings certificates issued by any federal savings and loan association if any principal amount of the certificate in excess of the amount insured by the federal government, or any agency thereof, is fully collateralized;~~

~~(f) Prime quality commercial paper bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;~~

~~(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, if the accepting bank or its holding company is either incorporated in the Commonwealth of Kentucky or has outstanding publicly held obligations bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations;~~

~~(h) Participating share in a mutual fund for local government investment;~~

~~(i) A commingled investment pool established and administered under KRS 66.480;~~

~~(j) Evidences of ownership of or fractional undivided interests in future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian;~~

~~(k) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States or entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a federal reserve bank, or any commercial bank, trust company, or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if:~~

~~1. Such obligations that are subject to the repurchase agreement are delivered in physical or in book entry form to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a safekeeping receipt issued by a depository satisfactory to the local government or public authority. The repurchase agreement shall provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;~~

~~2. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedure, conforming to the extent practicable with federal regulations and satisfactory to the local government or public authority, have been established for the benefit of the local government or public~~

~~authority or its assignee;~~

~~3. The securities are free and clear of any adverse third party claims; and~~

~~4. The repurchase agreement is in a form satisfactory to the local government or public authority; and~~

~~(l) Guaranteed investment contracts with a bank or insurance company, if the bank or insurance company bears one (1) of the two (2) highest ratings of at least one (1) nationally recognized rating service and does not bear a rating below one (1) of the two (2) highest ratings by any nationally recognized rating service~~].

The Committee Substitute to **HB 309** is as follows:

AN ACT relating to the state property and buildings commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.520 is amended to read as follows:

(1) The commission may issue and sell revenue or other authorized bonds, in carrying out the provisions of this chapter, in denominations and amounts, as is deemed to be for the best interest of the Commonwealth, for any of the following purposes:

(a) To acquire real estate for state governmental use;

(b) To pay all or any part of the expense or cost of or incidental to a building project for state governmental use;

(c) To defray the cost of plans, specifications, blueprints, architectural fees, and other expenses authorized to be incurred for state governmental use.

(2) The payment of bonds issued, together with the interest thereon, may be secured by a pledge and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Neither the payment of any bond, nor the interest thereon issued under the authority of KRS Chapter 56, shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any bond or interest thereon be payable out of any fund except funds derived from rentals or other revenues derived from the operation of the properties or from revenues as are available for the purpose by law.

(3) All competitive bids for the sale of revenue bonds shall be opened and read publicly by the secretary of the Finance and Administration Cabinet or his representative at a designated place, day, and hour, all of which shall be announced in the advertising made relative thereto.

(4) In the event the commission issues and sells bonds for a building project as authorized by KRS Chapter 56, insurance, including fire and windstorm, casualty, catastrophe, use and occupancy, and such other insurance as the commission may deem advisable, shall be carried in connection with the building project, and it may so obligate and bind itself in a trust indenture securing the payment of the bonds. Any insurance shall be paid for out of funds available for the project.

(5) ***The commission may invest proceeds from the sale of its revenue or other authorized bonds in financial instruments and investments*** as provided in KRS 42.500 ***for the State Investment Commission***[~~, the commission may invest proceeds from the sale of its revenue or other authorized bonds as follows:~~

~~(a) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States;~~

~~(b) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Banks, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Services;~~

~~(c) Obligations for the Commonwealth of Kentucky;~~

~~(d) Bonds and notes of any state or local government or public authority;~~

~~(e) Savings certificates issued by any federal savings and loan association if any principal amount of the certificate in excess of the amount insured by the federal government, or any agency thereof, is fully collateralized;~~

~~(f) Prime quality commercial paper bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligation;~~

~~(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, if the accepting bank or its holding company is either incorporated in the Commonwealth of Kentucky or has outstanding publicly held obligations bearing the highest rating of at least one (1) nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations;~~

~~(h) Participating share in a mutual fund for local government investment;~~

~~(i) A commingled investment pool established and administered under KRS 66.480;~~

~~(j) Evidences of ownership of or fractional undivided interests in future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian;~~

~~(k) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States or entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a federal reserve bank, or any commercial bank, trust company, or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if:~~

   ~~1. Such obligations that are subject to the repurchase agreement are delivered in physical or in book entry form to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a safekeeping receipt issued by a depository satisfactory to the local government or public authority. The repurchase agreement shall provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price. The financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;~~

   ~~2. A valid and perfected first security interest in the obligations which are the subject of the repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedure, conforming to the extent practicable with federal regulations and satisfactory to the local government or public authority, have been established for the benefit of the local government or public authority or its assignee;~~

   ~~3. The securities are free and clear of any adverse third party claims; and~~

   ~~4. The repurchase agreement is in a form satisfactory to the local government or public authority; and~~

~~(l) Guaranteed investment contracts with a bank or insurance company, if the bank or insurance company bears one (1) of the two (2) highest ratings of at least one (1) nationally recognized rating service and does not bear a rating below one (1) of the two (2) highest ratings by any nationally recognized rating service~~].

HB 336, AN ACT relating to probation and parole officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.076 is amended to read as follows:

The department shall establish a probation and parole officer salary improvement program consisting of the following elements:

(1) Probation and parole officer I with less than five (5) years of service shall receive no salary improvement.

(2) Probation and parole officer II with five (5) but less than ten (10) years of service shall receive a salary improvement of five percent (5%).

(3) Probation and parole officer III with ten (10) ***but less than fifteen (15)***[~~or more~~] years of service shall receive a salary improvement of ten percent (10%).

(4) ***Probation and parole officer IV with fifteen (15) or more years of service shall receive a salary improvement of ten percent (10%) or two thousand five hundred dollars ($2,500), whichever is less.***

(5) Salary improvements under this section shall be in addition to all other increments or other salary increases authorized by law but shall only be paid if the probation and parole officer has attained a favorable work-performance rating for four (4) of the previous five (5) years.

(6)[~~(5)~~] The service requirement shall be satisfied only by service as a Kentucky probation and parole officer.

(7)[~~(6)~~] At the time of implementation, officers who already meet the performance rating and service time requirements shall be awarded the respective position title and salary improvement. Officers who have not yet met those requirements shall be awarded the position title and salary improvements only upon meeting the requirements.

(8)[~~(7)~~] Probation and parole seniors, coordinators, and supervisors shall be included in the appropriate progression series level for salary improvement based upon the work performance rating and respective service time requirement attained. However, the progression series titles shall not apply to probation and parole seniors, coordinators and supervisors.

(9)[~~(8)~~] The department shall make the administrative regulations necessary for the administration of this section.

HB 340, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Medical Examiner Program.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.
            (2) Education Professional Standards Board.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.
        (d) Kentucky Educational Television.
        (e) Kentucky Historical Society.

(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.

- (k) Kentucky Board of Tax Appeals.
- (l) Backside Improvement Commission.

7. Cabinet for Human Resources:
    - (a) Department for Health Services.
    - (b) Department for Social Insurance.
    - (c) Department for Social Services.
    - (d) Department for Medicaid Services.
    - (e) Department for Mental Health and Mental Retardation Services.
    - (f) Commission for Children with Special Health Care Needs.
    - (g) Public Assistance Appeals Board.
    - (h) Office of Administrative Services.
    - (i) Office of Communications.
    - (j) Office of General Counsel.
    - (k) Office of Inspector General.
    - (l) Office of Policy and Budget.
    - (m) Office of the Ombudsman.
8. Finance and Administration Cabinet:
    - (a) Office of Legal and Legislative Services.
    - (b) Office of Management and Budget.
    - (c) Office of Financial Management and Economic Analysis.
    - (d) Office of the Controller.
    - (e) Department for Administration.
    - (f) Department of Facilities Management.
    - (g) Department of Information Systems.
    - (h) State Property and Buildings Commission.
    - (i) Kentucky Pollution Abatement Authority.
    - (j) Kentucky Savings Bond Authority.
    - (k) Deferred Compensation Systems.
    - (l) Office of Equal Employment Opportunity Contract Compliance.
    - (m) Capital Plaza Authority.
    - (n) County Officials Compensation Board.
    - (o) Kentucky Employees Retirement Systems.
    - (p) Commonwealth Credit Union.
    - (q) State Investment Commission.
    - (r) Kentucky Housing Corporation.
    - (s) Governmental Services Center.
    - (t) Kentucky Local Correctional Facilities Construction Authority.
    - (u) Kentucky Turnpike Authority.
    - (v) Historic Properties Advisory Commission.
    - ***(w) Kentucky Kare Health Insurance Authority.***
9. Labor Cabinet:
    - (a) Department of Workplace Standards.
    - (b) Department of Workers' Claims.
    - (c) Kentucky Labor-Management Advisory Council.
    - (d) Occupational Safety and Health Standards Board.
    - (e) Prevailing Wage Review Board.
    - (f) Workers' Compensation Board.

- (g) Kentucky Employees Insurance Association.
- (h) Apprenticeship and Training Council.
- (i) State Labor Relations Board.
- (j) Kentucky Occupational Safety and Health Review Commission.
- (k) Office of Administrative Services.
- (l) Office of Labor Management Relations.
- (m) Office of General Counsel.
- (n) Workers' Compensation Funding Commission.
- (o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
    - (a) Department of Property Taxation.
    - (b) Department of Compliance and Taxpayer Assistance.
    - (c) Department of Administrative Services.
    - (d) Office of General Counsel.
11. Tourism Cabinet:
    - (a) Department of Travel Development.
    - (b) Department of Parks.
    - (c) Department of Fish and Wildlife Resources.
    - (d) Kentucky Horse Park Commission.
    - (e) State Fair Board.
    - (f) Office of Administrative Services.
    - (g) Office of Film Promotion.
    - (h) Office of General Counsel.
12. Cabinet for Workforce Development:
    - (a) Department for Adult Education and Literacy.
    - (b) Department for Technical Education.
    - (c) Department of Vocational Rehabilitation.
    - (d) Department for the Blind.
    - (e) Department for Employment Services.
    - (f) State Board for Adult and Technical Education.
    - (g) Governor's Council on Vocational Education.
    - (h) The State Board for Proprietary Education.
    - (i) The Foundation for Adult Education.
    - (j) The Kentucky Job Training Coordinating Council.
    - (k) Office of General Counsel.
    - (l) Office of Communication Services.
    - (m) Office of Development and Industry Relations.
    - (n) Office of Workforce Analysis and Research.
    - (o) Office for Administrative Services.
    - (p) Office for Policy, Budget, and Personnel.
    - (q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
    - (a) Kentucky Community Service Commission.
4. Department of Local Government.

5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 2. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the commissioner of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The Department of Personnel shall be attached to the Office of the Secretary of the Governor's Executive Cabinet, and the commissioner shall have the duties and responsibilities assigned by the secretary of the executive cabinet, and shall be responsible to and report to the secretary. In addition, the commissioner, or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Department of Personnel the following divisions, each of which shall be headed by a director appointed by the commissioner, subject to the prior approval of the Governor, pursuant to KRS 12.050:

(a) The Division of Administration and Processing, which shall be responsible for:

1. Maintaining the central personnel files mandated by KRS 18A.020;
2. Processing personnel documents and position actions;
3. Operating and maintaining a uniform payroll system;
4. Implementing lay-off plans mandated by KRS 18A.113 to 18A.1132;
5. Certifying payrolls as required by KRS 18A.125; and
6. Monitoring and assisting state agency compliance with the provisions of the Federal Fair Labor Standards Act (FLSA) which sets minimum wage requirements, governs the payment of overtime compensation, regulates child labor laws, and requires equal pay for equal work.

(b) The Division of Applicant Counseling and Examinations, which shall be responsible for the:

1. Operation of a centralized applicant and employee counseling program;
2. Operation of an examination program for state employment;
3. Preparation of registers of candidates for state employment; and
4. Coordination of outreach programs, such as the administrative intern program.

(c) The Division of Benefits Administration, which shall be responsible for the administration of the state employee's benefit package established by:

1. KRS 18A.205 to 18A.220 (Life insurance);
2. KRS 18A.225 (Health insurance);
3. KRS 18A.227 (Flexible benefit plan);

4.~~[KRS 18A.2281 (Employee benefit plan);~~

~~5.]~~ KRS 18A.250 (Kentucky state employee's deferred compensation plan); and

5.~~[6.]~~ KRS 18A.375 (State employee workers' compensation fund).

(d) The Division of Classification and Compensation, which shall be responsible for the:

1. Maintenance of plans of classification and compensation for the state service; and
2. Review and evaluation of these plans.

(e) The Division of Employee Services, which shall be responsible for designing and administering programs governed, authorized, or established by:

1. KRS 18A.112 (Performance evaluations);
2. KRS 18A.197 (Sick leave sharing program);
3. KRS 18A.202 (Work-related employee incentive programs);
4. Health and safety programs mandated by the Federal Occupational, Safety, and Health Act (OSHA); and
5. Assessment and referral services provided to state employees in need.

(4) The department shall include principal assistants appointed by the commissioner, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of this

chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 18A.220 is amended to read as follows:

The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of KRS 18A.205 to 18A.225~~[,]~~ and ***Sections 6 to 11 of this Act***~~[18A.228]~~.

Section 4. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally-funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect~~[either]~~ standard insurance coverage***,***~~[or]~~ coverage by a health maintenance organization***, or health insurance described in Sections 6 to 11 of this Act***; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that ***standard***~~[either]~~ insurance***,***~~[or]~~ health maintenance organization coverage***, or health insurance described in Sections 6 to 11 of this Act*** may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, ***the health insurance agency described in Sections 6 to 11 of this Act,*** or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer ***or coverage under Sections 6 to 11 of this Act***.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The commissioner of personnel shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Supreme Court districts, members representing state government from each of the seven Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

Section 5. KRS 18A.229 is amended to read as follows:

(1) State employees as defined in KRS 18A.228 participating in the ***health insurance fund authorized in Section 7 of this Act***[~~state employee benefit fund enumerated in KRS 18A.2281~~] shall be given at least three (3) alternative plans from which participation may be chosen. One (1) plan shall require no fixed deductible expenses and reasonable co-payment ratios.

(2) State employees whose income is at or below one hundred percent (100%) of the nonfarm income official poverty guidelines as determined by the United States Department of Health and Human Services, may choose health insurance benefits described in KRS 304.18-025(2)(c) and (d).

SECTION 6. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Kare Health Insurance Authority is hereby created, and shall be attached to the Finance and

Administration Cabinet for administrative purposes only.

(2) The Kentucky Kare Health Insurance Authority shall be governed by a board of directors consisting of eight (8) members. The eight (8) members shall include the secretary of the Finance and Administration Cabinet or designee, the commissioner of the Department of Personnel or designee, the secretary of the Cabinet for Human Resources or designee, the commissioner of the Department of Insurance or designee, who shall be a nonvoting member, and four (4) members appointed by the Governor.

(3) The four (4) members appointed by the Governor shall include:

(a) One (1) at-large member, who shall serve an initial term of one (1) year;

(b) One (1) member representing state government policyholders, who shall serve an initial term of two (2) years;

(c) One (1) member representing individual policyholders, who shall serve an initial term of three (3) years; and

(d) One (1) member representing group policyholders with fifty (50) employees or less, who shall serve an initial term of four (4) years.

Thereafter, as each term expires, the vacancy created shall be filled by appointment of the Governor for a term of four (4) years. Appointments to fill an unexpired term of a member shall be for the remainder of the term.

(4) The Governor shall appoint a chairperson from the membership of the board of directors. The board of directors may elect by majority vote other officers it deems necessary from its members.

(5) Each voting member of the board who is not an employee of state government shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500) annually. The voting members of the board shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated pursuant to KRS Chapter 13A by the Finance and Administration Cabinet for state employees.

(6) The board of directors of the Kentucky Kare Health Insurance Authority shall have all of the duties, powers, and authority granted in Sections 6 to 11 of this Act and all other powers necessary or convenient to carry out and effectuate the purposes for which the authority is established.

(7) The Kentucky Kare Health Insurance Authority, without limitation by the provisions of KRS Chapter 18A and KRS Chapter 64, shall employ and set the salary of an executive director, who shall be appointed by and shall serve at the pleasure of the board. The executive director shall have proven successful experience, for a period of at least five (5) years, as an executive at the general management level in public or private insurance operations, or in the management of a state fund for health insurance coverage. The executive director shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board.

(8) The Auditor of Public Accounts shall be responsible for conducting an annual audit of the Kentucky Kare Health Insurance Authority. The costs of the annual audit shall be borne by the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Kare Health Insurance Authority may establish a Kentucky Kare Health Insurance Fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2). All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(3) The contributions made to this fund may be paid:

(a) From funds contributed by the covered employee through payroll deduction or otherwise;

(b) From funds contributed by the state or any department, board, or agency, or branch of state, city, county, urban-county or charter county; or

(c) From a combination of paragraphs (a) and (b) of this subsection, except that any amount due over that contributed by the state or any department, board, agency, or branch of state, city, urban-county, charter county, or county government for coverage shall be paid by the employee.

(4) No contribution by the state or any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of the employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions as the Kentucky Kare Health Insurance Authority may approve.

(6) Group rates for the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Kare Health Insurance Authority shall be responsible for all moneys coming into, and paid out of, the fund in accordance with this section, and shall ensure that the fund is actuarially sound.

(2) In carrying out its duties and responsibilities, the Kentucky Kare Health Insurance Authority shall:

- *(a) Promulgate administrative regulations with regard to the administration of the fund;*
- *(b) Promulgate administrative regulations governing the conditions under which an employee may participate in or withdraw from the fund, and the procedure by which an employee is to contribute to the fund;*
- *(c) Promulgate administrative regulations to ensure that the fund is actuarially sound;*
- *(d) Promulgate administrative regulations to ensure the integrity of the fund, and to ensure that the fund be used solely for the purposes specified in this section;*
- *(e) Purchase conversion insurance, reinsurance or excess insurance as deemed appropriate;*
- *(f) Contract, when advisable, with health providers for services as may best serve the interest of the fund;*
- *(g) Promulgate administrative regulations for the operation of the authority;*
- *(h) Offer standard health benefit plans to all Kentucky Health Purchasing Alliance members;*
- *(i) Recommend an annual operating budget for the authority; and*
- *(j) Develop broad policies for the long-term operation of the authority consistent with its mission and fiduciary responsibility.*

(3) Amounts withheld from employees, amounts contributed by the state or from federal funds, and all amounts contributed by any state authority shall be credited to and constitute a part of the fund. All other income, including the income derived from any dividends and distributions and interest earned, shall also be credited to and constitute part of the fund. Any amounts remaining in the fund after all the premiums or subscription charges and other expenses have been paid shall be retained in the fund as a special reserve for adverse fluctuation.

(4) (a) The State Treasurer, with approval of every investment by the Finance and Administration Cabinet, may invest the fund in:

- *1. Obligations of the United States government, its agencies, and Kentucky cities of the first, second, third, and fourth classes;*
- *2. Warrants issued on the State Treasurer;*
- *3. State bonds, including bridge revenue bonds issued under KRS 180.010 to 180.250;*
- *4. Bonds or other evidences of indebtedness of any domestic corporation that is an agent or instrumentality of the state or of any city, county, or school district of the state, secured by a mortgage on real estate in Kentucky that has been conveyed to the corporation by any city, county, school district, or state educational institution, and which the corporation has leased and given the option to lease to the city, county, school district, or state educational institution, with option in the lessee to purchase the property, or an interest therein, on the payment of the aggregate sum of the bond issue, plus the expenses incident to the issuance of the bonds and the formation and dissolution of the corporation, subject to credit of the amounts paid as rental for such property; and*
- *5. School bonds issued by cities under the provisions of KRS 162.120 to 162.290.*

(b) The Finance and Administration Cabinet shall not approve investments on which there has ever been a default in payment of principal or interest preceding the date of acceptance by the State Treasurer.

(c) All income derived from the investments shall accrue to the fund.

(d) Any necessary and reasonable cost incurred by the State Treasurer in administering this program shall be charged against the fund.

(5) (a) The Kentucky Kare Health Insurance Authority shall file annually, by the first day of October, a complete report of its operations for the preceding calendar year, with the Governor, the General Assembly, and the

Auditor of Public Accounts. The financial information required by this section shall be verified by the Auditor of Public Accounts as provided in KRS 43.050.

(b) The report shall include a detailed financial statement of the fund and the expenses incurred pursuant to this section so that the cost of the fund established under this section can be determined and identified. The report shall include, but not be limited to, the following information concerning the fund:

1. Assets and liabilities;

2. Income and expenditures;

3. Benefits paid and reserves for losses incurred but not yet paid, including potential losses and unreported losses;

4. Cost of any excess insurance, conversion coverage, reinsurance, or of any other kind of insurance obtained to cover potential losses, or provide supplemental benefits; and

5. Direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(c) The report shall also contain the following information:

1. The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year pursuant to subsection (6) of this section;

2. A description of the benefits provided by the fund and the number of state employees covered under the fund;

3. The rights of state employees who terminate their employment and the extent of benefits or coverages thereafter available to those persons and their dependents; and

4. Any other information which is relevant in order to make full, fair, and effective disclosure of the operations of the fund conducted pursuant to this section.

(6) The Kentucky Kare Health Insurance Authority shall have prepared every year, by a competent actuary familiar with health insurance, a report showing a complete actuarial evaluation of the fund and the adequacy of the rates of contribution. The report shall contain such recommendations as the actuary considers advisable. The authority may at any time request the actuary to make any studies or evaluations to determine the adequacy of the rates of contribution. Contribution rates may be adjusted by the authority, as recommended by the actuary, and shall become effective the first day of the following fiscal year.

SECTION 9. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The self-funded health insurance plan for state employees shall not be subject to taxation as provided in KRS 136.340(1) and shall not be required to pay taxes on premiums paid to unauthorized insurers in the purchase of insurance or reinsurance.

SECTION 10. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The Kentucky Kare Health Insurance Authority shall determine the date on which the self-funded health plan option shall be made available to state employees.

SECTION 11. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The self-funded plan may exclude coverage of services and supplies for conditions, diseases, ailments, or accidental injuries arising out of or in the course of employment only if those services and supplies are covered by workers' compensation under KRS Chapter 342.

Section 12. KRS 42.0245 is amended to read as follows:

(1) There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.

(2) The Division of Risk Management shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees, including, but not limited to, assisting and monitoring the development of a program of health care self-insurance for state employees as authorized ***by Sections 6 to 11 of this Act***~~[under KRS 18A.2281 and 18A.2282]~~;

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(3) Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Benefits Administration within the Department of Personnel and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the Division of Risk Management.

(4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Division of Risk Management the technical advice and other assistance the Division of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the division as described in this section.

(5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Division of Risk Management.

Section 13. KRS 45A.022 is amended to read as follows:

(1) This chapter shall apply to all insurance contracts purchased by the Commonwealth, except where the commissioner of insurance determines, with the concurrence of the secretary of Finance and Administration Cabinet, that:

(a) An emergency exists;

(b) Competition is not feasible; or

(c) The annual premium is less than ten thousand dollars ($10,000).

(2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state employees as authorized by KRS 18A.225 and ***Sections 6 to 11 of this Act***[~~18A.228~~] shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.

Section 14. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two

percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the Commissioner of Insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;
(b) Automobile;
(c) Inland marine;
(d) Fire and allied perils;
(e) Health; and
(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (6) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 ***and Sections 6 to 11 of this Act***[~~(2) and 18A.228~~].

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

Section 15. KRS 136.330 is amended to read as follows:

(1) Every foreign life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted.

(2) Every company shall, at the time of making the return, pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such premium receipts.

(3) The 1962 amendment to this section shall be effective as of January 1, 1962, and shall apply to the premium taxes due and payable as shown on returns filed subsequent to that date.

(4) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and ***Sections 6 to 11 of this Act***[~~18A.228~~] shall not be subject to taxation under this section.

Section 16. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and ***Sections 6 to 11 of this Act***[~~18A.228~~] shall not be subject to taxation under this section.

Section 17. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the Revenue Cabinet on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225***,***[~~ and~~] 18A.228***, and Sections 6 to 11 of this Act*** shall not be subject to taxation under this section.

Section 18. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the ***Kentucky Kare Health Insurance Fund as provided in Section 7 of this Act***[~~state employee benefit fund established under KRS 18A.2281~~].

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) (a) "Mandatory alliance member" means:

1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225***,***[~~ to~~] 18A.229***, and Sections 6 to 11 of this Act***;

2. Elected and salaried employees of local school districts;

3. Employees of local and district health departments;

4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and

5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:

a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and

b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.

(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.

(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.

(18) "Medical outcomes" means a change in an individual's health status after the provision of health services.

(19) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(20) "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(21) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(22) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(23) "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts.

Section 19. KRS 304.17A-070 is amended to read as follows:

(1) An accountable health plan may be created by health care providers, or health maintenance organizations, or health insurers, or ***the Kentucky Kare Health Insurance Authority as provided in Section 6 of this Act***[~~a state employee benefit fund established under KRS 18A.2281~~], for the purpose of providing health care services to alliance members.

(2) Each accountable health plan that seeks to offer services to members of the alliance shall first be certified by the alliance. The alliance shall adopt administrative regulations pursuant to KRS Chapter 13A, in consultation with the department, for certification of accountable health plans. To qualify as an accountable health plan, an applicant shall submit information acceptable to the alliance to satisfactorily demonstrate that the plan:

(a) Is licensed and in good standing with the licensure boards for participating providers;

(b) Has demonstrated the capacity to administer the health plans it is offering;

(c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

(d) Has the ability, policies, and procedures to conduct utilization management activities;

(e) Has the ability to achieve, monitor, and evaluate the quality and cost effectiveness of care provided by its provider network;

(f) Is financially solvent;

(g) Has the ability to assure enrollees adequate access to providers, including geographic availability and adequate numbers and types;

(h) Has the ability and procedures to monitor access to its provider network;

(i) Has a satisfactory grievance procedure and the ability to respond to enrollee's inquires and complaints;

(j) Has the ability to recruit and retain health care providers in medically-underserved areas;

(k) Does not limit the participation of any health care provider in its provider network in another accountable health plan;

(l) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting;

(m) Does not discriminate in enrolling members;

(n) Participates in coordination of benefits;

(o) Uses standardized electronic claims and billing processes and formats;

(p) Discloses to the alliance reimbursement arrangements with providers; and

(q) Assures that all services covered by the accountable health plan are available to all persons enrolled in the plan within thirty (30) miles of each person's place of residence, to the extent those services are available within that area, and assures that all services not available therein shall be offered at sites as proximate to the enrollee as possible.

(3) The alliance shall establish a certification fee to be paid by each accountable health plan to cover the cost in performing the certification review.

(4) An accountable health plan shall require all providers participating in the plan to report to the department specified data

which can be used in determining medical outcomes in accordance with standards approved by the department and shall comply with all provisions of this subtitle.

(5) A provider may participate in more than one (1) accountable health plan except for providers who are employed by a health maintenance organization or are employed full-time by a provider network and receive a salary.

(6) Notwithstanding any provisions of this section to the contrary, any self-insured plan provided by the ***Kentucky Kare Health Insurance Fund provided in Section 7 of this Act***~~[state employee benefit fund established under KRS 18A.2281]~~ shall be certified as an accountable health plan under this section as long as it operates in compliance with the provisions of ***Sections 6 to 11 of this Act***~~[KRS 18A.2281 to 18A.2286]~~.

Section 20. KRS 18A.2288 is amended to read as follows:

(1) If a member of one (1) of the state-administered retirement systems changes health insurance carriers from one (1) of the optional plans to the self-funded plan created pursuant to ***Sections 6 to 11 of this Act***~~[KRS 18A.2281]~~ and the member has satisfied the pre-existing condition limitation in the optional plan, the member shall be covered in the self-funded plan without any limitation for pre-existing conditions.

(2) A member of the County Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer and who has satisfied any pre-existing condition limitation required by the group, shall, upon retirement and upon the member's application, receive coverage in the self-funded plan created pursuant to ***Sections 6 to 11 of this Act***~~[KRS 18A.2281]~~ without any limitation for pre-existing conditions. This subsection also applies to a member of the Kentucky Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer, but not provided for in this chapter, who has satisfied any pre-existing condition limitation required by the group.

Section 21. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of eighty-one million dollars ($81,000,000) for fiscal year 1995, and eighty-six million five hundred thousand dollars ($86,500,000) for fiscal year 1996 including provider tax revenues and federal matching funds, to the extent possible, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

(a) The sum of one million dollars ($1,000,000) in fiscal year 1995, and one and one-half million dollars ($1,500,000) in fiscal year 1996, taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources.

(b) The amount remaining in the MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources in accordance with this section.

(c) No individual hospital shall receive distributions from the MAIT fund that exceed indigent inpatient care provided by the hospital that meet the guidelines established in paragraphs (a) and (b) of this subsection and documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate.

(d) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital, and except nonemergency care rendered through a hospital emergency room, level to the Cabinet for Human Resources on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.

2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the lesser of each hospital's individual per diem rate or the weighted median per diem for hospitals in each peer group, as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(6) Except for nonemergency care rendered through a hospital emergency room, hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(7) The secretary of the Cabinet for Human Resources shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and ***Sections 6 to 11 of this Act***~~[18A.2281]~~;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

Section 22. The following KRS sections are repealed:

18A.2281 State employee benefit fund for self-insurance.

18A.2282 Custody and supervision of state employee benefit fund -- Duties -- Moneys credited to fund -- Special reserve -- Investments -- Reports.

18A.2283 Tax exemption for self-funded health insurance plan.

18A.2284 Date option available -- Initial enrollment period.

18A.2285 Exclusions.

Section 23. If the reorganization of the cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (2) of Section 6 of this Act shall be codified as the Cabinet for Health Services.

If the reorganization of the Department of Personnel into the Personnel Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to the commissioner of the Department of Personnel appearing in subsection (2) of Section 6 of this Act shall be codified as the secretary of the Personnel Cabinet.

Section 24. The General Assembly hereby confirms Executive Order 97-146, dated January 31, 1997, as amended by Executive Order 97-238, dated February 24, 1997, relating to the Kentucky Kare Health Insurance Authority and Fund, to the extent it is not otherwise confirmed or superseded by this Act.

The Committee Substitute to **HB 340** is as follows:

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Medical Examiner Program.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.

        (1) Kentucky Board of Education.
        (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.
    (f) Kentucky Teachers' Retirement System Board of Trustees.
    (g) Kentucky Center for the Arts.
    (h) Kentucky Craft Marketing Program.
    (i) Kentucky Commission on the Deaf and Hard of Hearing.
    (j) Governor's Scholars Program.
    (k) Governor's School for the Arts.
    (l) Office of Development.
    (m) Kentucky Heritage Council.
    (n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
    (a) Environmental Quality Commission.
    (b) Kentucky Nature Preserves Commission.
    (c) Department for Environmental Protection.
    (d) Department for Natural Resources.
    (e) Department for Surface Mining Reclamation and Enforcement.
    (f) Office of Legal Services.
    (g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
    (a) Department of Highways.
    (b) Department of Vehicle Regulation.
    (c) Department of Administrative Services.
    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Office of Aeronautics.
    (g) Office of General Counsel.
    (h) Office of Public Relations.
    (i) Office of Personnel Management.
    (j) Office of Minority Affairs.
    (k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department of Job Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Tobacco Research Board.
    (f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.

(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
(w) Kentucky Kare Health Insurance Authority.

9. Labor Cabinet:

(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
    (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 2. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the commissioner of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The Department of Personnel shall be attached to the Office of the Secretary of the Governor's Executive Cabinet, and the commissioner shall have the duties and responsibilities assigned by the secretary of the executive cabinet, and shall be responsible to and report to the secretary. In addition, the commissioner, or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Department of Personnel the following divisions, each of which shall be headed by a director appointed by the commissioner, subject to the prior approval of the Governor, pursuant to KRS 12.050:

(a) The Division of Administration and Processing, which shall be responsible for:

1. Maintaining the central personnel files mandated by KRS 18A.020;
2. Processing personnel documents and position actions;
3. Operating and maintaining a uniform payroll system;
4. Implementing lay-off plans mandated by KRS 18A.113 to 18A.1132;
5. Certifying payrolls as required by KRS 18A.125; and
6. Monitoring and assisting state agency compliance with the provisions of the Federal Fair Labor Standards Act (FLSA) which sets minimum wage requirements, governs the payment of overtime compensation, regulates child labor laws, and requires equal pay for equal work.

(b) The Division of Applicant Counseling and Examinations, which shall be responsible for the:

1. Operation of a centralized applicant and employee counseling program;
2. Operation of an examination program for state employment;
3. Preparation of registers of candidates for state employment; and
4. Coordination of outreach programs, such as the administrative intern program.

(c) The Division of Benefits Administration, which shall be responsible for the administration of the state employee's benefit package established by:

1. KRS 18A.205 to 18A.220 (Life insurance);
2. KRS 18A.225 (Health insurance);
3. KRS 18A.227 (Flexible benefit plan);
4.[~~KRS 18A.2281 (Employee benefit plan);~~
~~5.~~] KRS 18A.250 (Kentucky state employee's deferred compensation plan); and
5.[~~6.~~] KRS 18A.375 (State employee workers' compensation fund).

(d) The Division of Classification and Compensation, which shall be responsible for the:

1. Maintenance of plans of classification and compensation for the state service; and
2. Review and evaluation of these plans.

(e) The Division of Employee Services, which shall be responsible for designing and administering programs governed, authorized, or established by:

1. KRS 18A.112 (Performance evaluations);

2. KRS 18A.197 (Sick leave sharing program);
3. KRS 18A.202 (Work-related employee incentive programs);
4. Health and safety programs mandated by the Federal Occupational, Safety, and Health Act (OSHA); and
5. Assessment and referral services provided to state employees in need.

(4) The department shall include principal assistants appointed by the commissioner, pursuant to KRS 12.050, as necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 18A.220 is amended to read as follows:

The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of KRS 18A.205 to 18A.225~~[,]~~ and ***Sections 6 to 11 of this Act***~~[18A.228]~~.

Section 4. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally-funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect~~[either]~~ standard insurance coverage***,***~~[or]~~ coverage by a health maintenance organization***, or health insurance described in Sections 6 to 11 of this Act***; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that ***standard***~~[either]~~ insurance***,***~~[or]~~ health maintenance organization coverage***, or health insurance described in Sections 6 to 11 of this Act*** may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, ***the health insurance agency described in Sections 6 to 11 of this Act,*** or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom

the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer ***or coverage under Sections 6 to 11 of this Act***.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The commissioner of personnel shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Supreme Court districts, members representing state government from each of the seven Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

Section 5. KRS 18A.229 is amended to read as follows:

(1) State employees as defined in KRS 18A.228 participating in the ***health insurance fund authorized in Section 7 of this Act***~~[state employee benefit fund enumerated in KRS 18A.2281]~~ shall be given at least three (3) alternative plans from

which participation may be chosen. One (1) plan shall require no fixed deductible expenses and reasonable co-payment ratios.

(2) State employees whose income is at or below one hundred percent (100%) of the nonfarm income official poverty guidelines as determined by the United States Department of Health and Human Services, may choose health insurance benefits described in KRS 304.18-025(2)(c) and (d).

SECTION 6. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Kare Health Insurance Authority is hereby created, and shall be attached to the Finance and Administration Cabinet for administrative purposes only.

(2) The Kentucky Kare Health Insurance Authority shall be governed by a board of directors consisting of eight (8) members. The eight (8) members shall include the secretary of the Finance and Administration Cabinet or designee, the commissioner of the Department of Personnel or designee, the secretary of the Cabinet for Human Resources or designee, the commissioner of the Department of Insurance or designee, who shall be a nonvoting member, and four (4) members appointed by the Governor.

(3) The four (4) members appointed by the Governor shall include:

(a) One (1) at-large member, who shall serve an initial term of one (1) year;

(b) One (1) member representing state government policyholders, who shall serve an initial term of two (2) years;

(c) One (1) member representing individual policyholders, who shall serve an initial term of three (3) years; and

(d) One (1) member representing group policyholders with fifty (50) employees or less, who shall serve an initial term of four (4) years.

Thereafter, as each term expires, the vacancy created shall be filled by appointment of the Governor for a term of four (4) years. Appointments to fill an unexpired term of a member shall be for the remainder of the term.

(4) The Governor shall appoint a chairperson from the membership of the board of directors. The board of directors may elect by majority vote other officers it deems necessary from its members.

(5) Each voting member of the board who is not an employee of state government shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500) annually. The voting members of the board shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated pursuant to KRS Chapter 13A by the Finance and Administration Cabinet for state employees.

(6) The board of directors of the Kentucky Kare Health Insurance Authority shall have all of the duties, powers, and authority granted in Sections 6 to 11 of this Act and all other powers necessary or convenient to carry out and effectuate the purposes for which the authority is established.

(7) The Kentucky Kare Health Insurance Authority, without limitation by the provisions of KRS Chapter 18A and KRS Chapter 64, shall employ and set the salary of an executive director, who shall be appointed by and shall serve at the pleasure of the board. The executive director shall have proven successful experience, for a period of at least five (5) years, as an executive at the general management level in public or private insurance operations, or in the management of a state fund for health insurance coverage. The executive director shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board.

(8) The Auditor of Public Accounts shall be responsible for conducting an annual audit of the Kentucky Kare Health Insurance Authority. The costs of the annual audit shall be borne by the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Kare Health Insurance Authority may establish a Kentucky Kare Health Insurance Fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2). All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) (a) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(b) For purposes of this section and Sections 8 to 11 of this Act, the term "state employee" shall be defined as provided in KRS 18A.228.

(3) The contributions made to this fund may be paid:

(a) From funds contributed by the covered employee through payroll deduction or otherwise;

(b) From funds contributed by the state or any department, board, or agency, or branch of state, city, county, urban-county or charter county; or

(c) From a combination of paragraphs (a) and (b) of this subsection, except that any amount due over that contributed by the state or any department, board, agency, or branch of state, city, urban-county, charter county, or county government for coverage shall be paid by the employee.

(4) No contribution by the state or any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of the employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions as the Kentucky Kare Health Insurance Authority may approve.

(6) Group rates for the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

SECTION 8. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Kare Health Insurance Authority shall be responsible for all moneys coming into, and paid out of, the fund in accordance with this section, and shall ensure that the fund is actuarially sound.

(2) In carrying out its duties and responsibilities, the Kentucky Kare Health Insurance Authority shall:

(a) Promulgate administrative regulations with regard to the administration of the fund;

(b) Promulgate administrative regulations governing the conditions under which an employee may participate in or withdraw from the fund, and the procedure by which an employee is to contribute to the fund;

(c) Promulgate administrative regulations to ensure that the fund is actuarially sound;

(d) Promulgate administrative regulations to ensure the integrity of the fund, and to ensure that the fund be used solely for the purposes specified in this section;

(e) Purchase conversion insurance, reinsurance or excess insurance as deemed appropriate;

(f) Contract, when advisable, with health providers for services as may best serve the interest of the fund;

(g) Promulgate administrative regulations for the operation of the authority;

(h) Offer standard health benefit plans to all Kentucky Health Purchasing Alliance members;

(i) Recommend an annual operating budget for the authority; and

(j) Develop broad policies for the long-term operation of the authority consistent with its mission and fiduciary responsibility.

(3) Amounts withheld from employees, amounts contributed by the state or from federal funds, and all amounts contributed by any state authority shall be credited to and constitute a part of the fund. All other income, including the income derived from any dividends and distributions and interest earned, shall also be credited to and constitute part of the fund. Any amounts remaining in the fund after all the premiums or subscription charges and other expenses have been paid shall be retained in the fund as a special reserve for adverse fluctuation.

(4) (a) The State Treasurer, with approval of every investment by the Finance and Administration Cabinet, may invest the fund in:

1. Obligations of the United States government, its agencies, and Kentucky cities of the first, second, third, and fourth classes;

2. Warrants issued on the State Treasurer;

3. State bonds, including bridge revenue bonds issued under KRS 180.010 to 180.250;

4. Bonds or other evidences of indebtedness of any domestic corporation that is an agent or instrumentality of the state or of any city, county, or school district of the state, secured by a mortgage on real estate in Kentucky that has been conveyed to the corporation by any city, county, school district, or state educational institution, and which the corporation has leased and given the option to lease to the city, county, school district, or state educational institution, with option in the lessee to purchase the property, or an interest therein, on the payment of the aggregate sum of the bond issue, plus the expenses incident to the issuance of the bonds and the formation and dissolution of the corporation, subject to credit of the amounts paid as rental for such property; and

5. School bonds issued by cities under the provisions of KRS 162.120 to 162.290.

(b) The Finance and Administration Cabinet shall not approve investments on which there has ever been a default in payment of principal or interest preceding the date of acceptance by the State Treasurer.

(c) All income derived from the investments shall accrue to the fund.

(d) Any necessary and reasonable cost incurred by the State Treasurer in administering this program shall be charged against the fund.

(5) (a) The Kentucky Kare Health Insurance Authority shall file annually, by the first day of October, a complete report of its operations for the preceding calendar year, with the Governor, the General Assembly, and the Auditor of Public Accounts. The financial information required by this section shall be verified by the Auditor of Public Accounts as provided in KRS 43.050.

(b) The report shall include a detailed financial statement of the fund and the expenses incurred pursuant to this section so that the cost of the fund established under this section can be determined and identified. The report shall include, but not be limited to, the following information concerning the fund:

1. Assets and liabilities;

2. Income and expenditures;

3. Benefits paid and reserves for losses incurred but not yet paid, including potential losses and unreported losses;

4. Cost of any excess insurance, conversion coverage, reinsurance, or of any other kind of insurance obtained to cover potential losses, or provide supplemental benefits; and

5. Direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(c) The report shall also contain the following information:

1. The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year pursuant to subsection (6) of this section;

2. A description of the benefits provided by the fund and the number of state employees covered under the fund;

3. The rights of state employees who terminate their employment and the extent of benefits or coverages thereafter available to those persons and their dependents; and

4. Any other information which is relevant in order to make full, fair, and effective disclosure of the operations of the fund conducted pursuant to this section.

(6) The Kentucky Kare Health Insurance Authority shall have prepared every year, by a competent actuary familiar with health insurance, a report showing a complete actuarial evaluation of the fund and the adequacy of the rates of contribution. The report shall contain such recommendations as the actuary considers advisable. The authority may at any time request the actuary to make any studies or evaluations to determine the adequacy of the rates of contribution. Contribution rates may be adjusted by the authority, as recommended by the actuary, and shall become effective the first day of the following fiscal year.

SECTION 9. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The self-funded health insurance plan for state employees shall not be subject to taxation as provided in KRS 136.340(1) and shall not be required to pay taxes on premiums paid to unauthorized insurers in the purchase of insurance or reinsurance.

SECTION 10. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The Kentucky Kare Health Insurance Authority shall determine the date on which the self-funded health plan option shall be made available to state employees.

SECTION 11. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The self-funded plan may exclude coverage of services and supplies for conditions, diseases, ailments, or accidental injuries arising out of or in the course of employment only if those services and supplies are covered by workers' compensation under KRS Chapter 342.

Section 12. KRS 42.0245 is amended to read as follows:

(1) There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.

(2) The Division of Risk Management shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees, including, but not limited to, assisting and monitoring the development of a program of health care self-insurance for state employees as authorized ***by Sections 6 to 11 of this Act***[~~under KRS 18A.2281 and 18A.2282~~];

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(3) Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Benefits Administration within the Department of Personnel and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the Division of Risk Management.

(4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Division of Risk Management the technical advice and other assistance the Division of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the division as described in this section.

(5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Division of Risk Management.

Section 13. KRS 45A.022 is amended to read as follows:

(1) This chapter shall apply to all insurance contracts purchased by the Commonwealth, except where the commissioner of insurance determines, with the concurrence of the secretary of Finance and Administration Cabinet, that:

(a) An emergency exists;

(b) Competition is not feasible; or

(c) The annual premium is less than ten thousand dollars ($10,000).

(2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state employees as authorized by KRS 18A.225 and ***Sections 6 to 11 of this Act***[~~18A.228~~] shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.

Section 14. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance

company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the Commissioner of Insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

 (a) Casualty;
 (b) Automobile;
 (c) Inland marine;
 (d) Fire and allied perils;
 (e) Health; and
 (f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (6) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 ***and Sections 6 to 11 of this Act***[~~(2) and 18A.228~~].

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

Section 15. KRS 136.330 is amended to read as follows:

(1) Every foreign life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for

dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted.

(2) Every company shall, at the time of making the return, pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such premium receipts.

(3) The 1962 amendment to this section shall be effective as of January 1, 1962, and shall apply to the premium taxes due and payable as shown on returns filed subsequent to that date.

(4) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and ***Sections 6 to 11 of this Act***[~~18A.228~~] shall not be subject to taxation under this section.

Section 16. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and ***Sections 6 to 11 of this Act***[~~18A.228~~] shall not be subject to taxation under this section.

Section 17. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the Revenue Cabinet on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225***,***[~~ and~~] 18A.228***, and Sections 6 to 11 of this Act*** shall not be subject to taxation under this section.

Section 18. KRS 304.17A-010 is amended to read as follows:

As used in KRS 304.17A-010 to 304.17A-070:

(1) "Accountable health plan" means an organization that integrates health care providers and facilities and assumes financial risk, in order to provide health care services to alliance members, and is certified by the alliance pursuant to KRS 304.17A-070. The term includes any self-insured plan provided by the ***Kentucky Kare Health Insurance Fund as provided in Section 7 of this Act***[~~state employee benefit fund established under KRS 18A.2281~~].

(2) "Alliance" means the Kentucky Health Purchasing Alliance created by KRS 304.17A-020.

(3) "Alliance member" means both mandatory and voluntary alliance members.

(4) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(5) "Commissioner" means the commissioner of the Kentucky Department of Insurance.

(6) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(7) "Health purchasing alliance" means an agency attached for administrative purposes to the department but which operates independently of the department and that provides member purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health plans and which was previously certified by the Kentucky Health Policy Board.

(8) "Consumer" means an individual user of health care services.

(9) "Department" means the Kentucky Department of Insurance.

(10) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(11) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed pursuant to KRS Chapter 311;

(b) Chiropractors licensed pursuant to KRS Chapter 312;

(c) Dentists licensed pursuant to KRS Chapter 313;

(d) Optometrists licensed pursuant to KRS Chapter 320;

(e) Physician assistants regulated pursuant to KRS Chapter 311;

(f) Nurse practitioners licensed pursuant to KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated pursuant to KRS Chapter 13A.

(12) "Health insurer" or "insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; a provider-sponsored integrated health delivery network which complies with financial and other criteria established by the department to protect against financial insolvency and to assure capability of providing required services or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky.

(13) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; or health maintenance organization contract; or standard and supplemental health benefit plan which affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, or student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, and, upon approval by the department, individual limited guaranteed renewable hospital or medical expense policies whose provisions and terms may not be changed by the insurer, which were issued prior to January 1, 1994, and conversion policies for group health policies existing on January 1, 1994, if the department determines that the individual limited guaranteed renewable expense policies and conversion policies provide benefits that are less than the benefits provided by the basic health benefit plan as defined by the department.

(14) "Health status" means an assessment of an individual's mental and physical condition.

(15) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services. Managed care techniques may include one (1) or more of the following:

(a) Prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services;

(b) Contracts with selected health care providers;

(c) Financial incentives or disincentives related to the use of specified providers, services, or service sites;

(d) Controlled access to and coordination of services by a case manager; and

(e) Payor efforts to identify treatment alternatives and modify benefit restrictions for high cost patient care.

(16) "Managed competition" means a process by which purchasers participate in alliances to obtain information on health benefit plans, and purchase from, competing accountable health plans.

(17) (a) "Mandatory alliance member" means:

1. Any person for whom the Commonwealth provides health insurance pursuant to KRS 18A.225***,***[~~ to~~] 18A.229***, and Sections 6 to 11 of this Act***;

2. Elected and salaried employees of local school districts;

3. Employees of local and district health departments;

4. Justices, judges, clerks, deputy clerks, and all other employees of the Judicial Department; and

5. Recipients under the Kentucky Medical Assistance Program under KRS Chapter 205, to the extent the basic benefit package offered by the alliance covers those mandatory Medicaid services required to be offered by federal law if the following conditions are met:

a. The Cabinet for Human Resources determines enrolling Medicaid recipients in the alliance to be practicable; and

b. Necessary waivers are obtained by the Cabinet for Human Resources from the Federal Health Care Financing Administration to permit enrolling Medicaid recipients in the alliance.

(b) With respect to subparagraphs 2. to 4. of paragraph (a) of this subsection, "mandatory alliance member" means only those positions or offices for which health care coverage is provided on July 15, 1994 or for which health care coverage is extended after July 15, 1994, and nothing in this subsection shall be construed to mandate provision of health care coverage for positions and offices within the scope of those subparagraphs if that coverage was not in effect on July 15, 1994.

(c) With respect to those persons listed in subparagraphs 2. to 4. of paragraph (a) of this subsection, alliance membership shall be mandatory effective January 1, 1996, except those persons covered under a health insurance contract in effect as of April 1, 1994, and which is still in effect as of January 1, 1996, shall not be required to be a member of the alliance until the termination date of the contract.

(18) "Medical outcomes" means a change in an individual's health status after the provision of health services.

(19) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(20) "Purchaser" means an individual, an organization, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals.

(21) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(22) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(23) "Voluntary alliance member" means:

(a) An employer with fifty (50) employees or less who voluntarily chooses to participate in a health purchasing alliance except that any employer who provides health plan benefits for one employee shall provide health plan benefits for all employees, including part-time employees; or

(b) An individual who voluntarily chooses to participate in a health purchasing alliance; or

(c) An affiliated group or association consisting of fifty (50) individuals or less who voluntarily choose to participate in the health purchasing alliance as a group; or

(d) Employees of state institutions of higher education; or

(e) Elected and salaried employees of cities, counties, urban-counties, charter counties, or special districts excluding school districts.

Section 19. KRS 304.17A-070 is amended to read as follows:

(1) An accountable health plan may be created by health care providers, or health maintenance organizations, or health insurers, or ***the Kentucky Kare Health Insurance Authority as provided in Section 6 of this Act***[~~a state employee benefit fund established under KRS 18A.2281~~], for the purpose of providing health care services to alliance members.

(2) Each accountable health plan that seeks to offer services to members of the alliance shall first be certified by the alliance. The alliance shall adopt administrative regulations pursuant to KRS Chapter 13A, in consultation with the department, for certification of accountable health plans. To qualify as an accountable health plan, an applicant shall submit information acceptable to the alliance to satisfactorily demonstrate that the plan:

(a) Is licensed and in good standing with the licensure boards for participating providers;

(b) Has demonstrated the capacity to administer the health plans it is offering;

(c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

(d) Has the ability, policies, and procedures to conduct utilization management activities;

(e) Has the ability to achieve, monitor, and evaluate the quality and cost effectiveness of care provided by its provider network;

(f) Is financially solvent;

(g) Has the ability to assure enrollees adequate access to providers, including geographic availability and adequate numbers and types;

(h) Has the ability and procedures to monitor access to its provider network;

(i) Has a satisfactory grievance procedure and the ability to respond to enrollee's inquires and complaints;

(j) Has the ability to recruit and retain health care providers in medically-underserved areas;

(k) Does not limit the participation of any health care provider in its provider network in another accountable health plan;

(l) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting;

(m) Does not discriminate in enrolling members;

(n) Participates in coordination of benefits;

(o) Uses standardized electronic claims and billing processes and formats;

(p) Discloses to the alliance reimbursement arrangements with providers; and

(q) Assures that all services covered by the accountable health plan are available to all persons enrolled in the plan within thirty (30) miles of each person's place of residence, to the extent those services are available within that area, and assures that all services not available therein shall be offered at sites as proximate to the enrollee as possible.

(3) The alliance shall establish a certification fee to be paid by each accountable health plan to cover the cost in performing the certification review.

(4) An accountable health plan shall require all providers participating in the plan to report to the department specified data which can be used in determining medical outcomes in accordance with standards approved by the department and shall comply with all provisions of this subtitle.

(5) A provider may participate in more than one (1) accountable health plan except for providers who are employed by a health maintenance organization or are employed full-time by a provider network and receive a salary.

(6) Notwithstanding any provisions of this section to the contrary, any self-insured plan provided by the ***Kentucky Kare Health Insurance Fund provided in Section 7 of this Act***[~~state employee benefit fund established under KRS 18A.2281~~] shall be certified as an accountable health plan under this section as long as it operates in compliance with the provisions of ***Sections 6 to 11 of this Act***[~~KRS 18A.2281 to 18A.2286~~].

Section 20. KRS 18A.2288 is amended to read as follows:

(1) If a member of one (1) of the state-administered retirement systems changes health insurance carriers from one (1) of the optional plans to the self-funded plan created pursuant to ***Sections 6 to 11 of this Act***[~~KRS 18A.2281~~] and the member has satisfied the pre-existing condition limitation in the optional plan, the member shall be covered in the self-funded plan without any limitation for pre-existing conditions.

(2) A member of the County Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer and who has satisfied any pre-existing condition limitation required by the group, shall, upon retirement and upon the member's application, receive coverage in the self-funded plan created pursuant to ***Sections 6 to 11 of this Act***[~~KRS 18A.2281~~] without any limitation for pre-existing conditions. This subsection also applies to a member of the Kentucky Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer, but not provided for in this chapter, who has satisfied any pre-existing condition limitation required by the group.

Section 21. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund (MART)" shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund (MAIT)" shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of eighty-one million dollars ($81,000,000) for fiscal year 1995, and eighty-six million five hundred thousand dollars ($86,500,000) for fiscal year 1996 including provider tax revenues and federal matching funds, to the extent possible, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

(a) The sum of one million dollars ($1,000,000) in fiscal year 1995, and one and one-half million dollars ($1,500,000) in fiscal year 1996, taken entirely from provider tax revenues, transferred to the MAIT fund, shall be used to compensate hospitals that do not qualify for the disproportionate share program for services provided by the hospitals to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources.

(b) The amount remaining in the MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, except nonemergency care rendered through a hospital emergency room, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Human Resources in accordance with this section.

(c) No individual hospital shall receive distributions from the MAIT fund that exceed indigent inpatient care provided by the hospital that meet the guidelines established in paragraphs (a) and (b) of this subsection and documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate.

(d) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital, and except nonemergency care rendered through a hospital emergency room, level to the Cabinet for Human Resources on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20 and October 20 of each year thereafter.

2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for documented qualifying services provided at the lesser of each hospital's individual per diem rate or the weighted median per diem for hospitals in each peer group, as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Human Resources, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(6) Except for nonemergency care rendered through a hospital emergency room, hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

(7) The secretary of the Cabinet for Human Resources shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and ***Sections 6 to 11 of this Act***~~[18A.2281]~~;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

Section 22. The following KRS sections are repealed:

18A.2281 State employee benefit fund for self-insurance.

18A.2282 Custody and supervision of state employee benefit fund -- Duties -- Moneys credited to fund -- Special reserve -- Investments -- Reports.

18A.2283 Tax exemption for self-funded health insurance plan.

18A.2284 Date option available -- Initial enrollment period.

18A.2285 Exclusions.

Section 23. If the reorganization of the cabinet for Human Resources into the Cabinet for Families and Children and the Cabinet for Health Services is confirmed by this 1998 Regular Session of the General Assembly, the reference to the Cabinet for Human Resources appearing in subsection (2) of Section 6 of this Act shall be codified as the Cabinet for Health Services.

If the reorganization of the Department of Personnel into the Personnel Cabinet is confirmed by this 1998 Regular Session of the General Assembly, the reference to the commissioner of the Department of Personnel appearing in subsection (2) of Section 6 of this Act shall be codified as the secretary of the Personnel Cabinet.

Section 24. The General Assembly hereby confirms Executive Order 97-146, dated January 31, 1997, as amended by Executive Order 97-238, dated February 24, 1997, relating to the Kentucky Kare Health Insurance Authority and Fund, to the extent it is not otherwise confirmed or superseded by this Act.

HB 343, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.

(h) Medical Examiner Program.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
    (1) Kentucky Board of Education.
    (2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.

(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Racing Commission.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Backside Improvement Commission.
7. Cabinet for Human Resources:
   (a) Department for Health Services.
   (b) Department for Social Insurance.
   (c) Department for Social Services.
   (d) Department for Medicaid Services.
   (e) Department for Mental Health and Mental Retardation Services.
   (f) Commission for Children with Special Health Care Needs.
   (g) Public Assistance Appeals Board.
   (h) Office of Administrative Services.
   (i) Office of Communications.
   (j) Office of General Counsel.
   (k) Office of Inspector General.
   (l) Office of Policy and Budget.
   (m) Office of the Ombudsman.
8. Finance and Administration Cabinet:
   (a) Office of Legal and Legislative Services.
   (b) Office of Management and Budget.
   (c) Office of Financial Management and Economic Analysis.
   (d) Office of the Controller.
   (e) Department for Administration.
   (f) Department of Facilities Management.
   (g) Department of Information Systems.
   (h) State Property and Buildings Commission.
   (i) Kentucky Pollution Abatement Authority.
   (j) Kentucky Savings Bond Authority.
   (k) Deferred Compensation Systems.
   (l) Office of Equal Employment Opportunity Contract Compliance.
   (m) ***Office of*** Capital Plaza ***Operations***~~[Authority]~~.
   (n) County Officials Compensation Board.
   (o) Kentucky Employees Retirement Systems.
   (p) Commonwealth Credit Union.
   (q) State Investment Commission.
   (r) Kentucky Housing Corporation.

(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor Management Relations.
    (m) Office of General Counsel.
    (n) Workers' Compensation Funding Commission.
    (o) Employers Mutual Insurance Authority.
10. Revenue Cabinet:
    (a) Department of Property Taxation.
    (b) Department of Compliance and Taxpayer Assistance.
    (c) Department of Administrative Services.
    (d) Office of General Counsel.
11. Tourism Cabinet:
    (a) Department of Travel Development.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of Film Promotion.
    (h) Office of General Counsel.
12. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.

(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
    (a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 2. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Budget, the Office of Financial Management and Economic Analysis, ***the Office of Capital Plaza Operations,*** and the Office of the Controller, each of which offices shall be headed by an executive director, the Department for Administration which shall be headed by a commissioner, and the Department for Facilities Management which shall be headed by a commissioner, each of whom shall be responsible to the secretary and appointed by the secretary upon the approval of the Governor. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 3. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

(1) State Property and Buildings Commission;
(2) Kentucky Pollution Abatement Authority;
(3)[~~Capital Plaza Authority;~~
~~(4)~~] Kentucky Savings Bond Authority;
(4)[~~(5)~~] County Officials Compensation Board;
(5)[~~(6)~~] Kentucky Turnpike Authority;
(6)[~~(7)~~] State Investment Commission;
(7)[~~(8)~~] Kentucky Housing Corporation; and
(8)[~~(9)~~] Governmental Services Center.

Section 4. KRS 42.018 is amended to read as follows:

(1) The Office of Management and Budget established by KRS 42.014 shall be responsible for the fiscal, personnel, and payroll functions of the cabinet.

(2) The Office of Capital Plaza Operations established by Section 2 of this Act shall:

(a) Be responsible for the operation of the Capital Plaza Civic Center and related facilities in Frankfort, Kentucky; and

(b) Provide administrative support to the Capital Development Committee created by Section 6 of this Act.

Section 5. KRS 42.545 is amended to read as follows:

Each agency authorized to issue bonds listed in this section shall make a report according to generally accepted accounting principles of all money received and disbursed during each fiscal year, on or before the fifteenth of July, showing the receipts, expenditures, trustees, depositories, rates of interest paid by depositories, investments, and rates of return on investments by each agency to the Office of the Controller. The agencies required to report under this section are Eastern Kentucky University;

Kentucky State University; Morehead State University; Murray State University; Northern Kentucky University; University of Kentucky; University of Louisville; Western Kentucky University; Kentucky Community and Technical College System; Kentucky Housing Corporation; Kentucky Pollution Abatement Authority; Kentucky Higher Education Student Loan Corporation; Kentucky School Building Authority; the Turnpike Authority of Kentucky; the State Property and Buildings Commission; Churchill Downs Authority; Kentucky Health and Geriatric Authority;[~~ Capital Plaza Authority;~~] State Fair Board; Department of Fish and Wildlife Resources; Water Resources Authority of Kentucky; and any other agency or instrumentality authorized to issue bonds.

Section 6. KRS 45.001 is amended to read as follows:

(1) ***The Capital Development***[~~A Joint Frankfort, Franklin County, Commonwealth of Kentucky Planning and Coordinating~~] Committee is created. The committee shall ***ensure the proper coordination***[~~jointly plan and coordinate all projects~~] of state government ***initiatives*** which impact ***the*** city ***of Frankfort*** and ***Franklin*** county government and are unique to the seat of state government[~~, such as but not limited to:~~

~~(a) Payments in lieu of taxes;~~

~~(b) Construction of buildings, roads and bridges;~~

~~(c) The destruction of buildings or disposal of real property; and~~

~~(d) Substantial employment increases or decreases~~].

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following[~~ ex officio~~] members ***or their designees***:

(a) The mayor of the city of Frankfort***;***[~~,~~]

(b) The county judge/executive of Franklin County***;***[~~,~~]

(c) The secretary of the Finance and Administration Cabinet***;***[~~ or designee, and the secretary of the Transportation Cabinet or designee~~]

(d) The secretary of the Tourism Cabinet;

(e) The secretary of the Education, Arts, and Humanities Cabinet;

(f) The commissioner of the Department of Travel Development;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

[~~The mayor and county judge/executive shall jointly appoint a citizen at large, who is a resident of Franklin County. The Kentucky Economic Development Partnership shall also appoint a citizen at large, who is also a resident of Franklin County.~~] The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The ***Governor shall appoint the***[~~mayor and county judge/executive shall serve as~~] chairperson of the committee[~~ on alternating terms of one (1) year. The mayor shall serve the first term as chairperson beginning July 15, 1984~~].

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 7. The following KRS sections are repealed:

58.210 Definitions.

58.215 Capital Plaza Authority -- Powers -- Members -- Appointment -- Compensation -- Officers -- Records.

58.220 Powers of authority.

58.225 Agreements for financing or construction of projects.

58.230 Leases by authority -- Terms.

58.235 Revenue bonds, issuance -- Contents.

58.240 Bonds not obligations of state -- How paid.

58.245 Security for bonds, forms -- Terms of trust indenture.

58.250 Bondholders may enforce rights.

58.255 Bonds of authority, legal investments.

58.260 Refunding bonds.

58.265 Funds received as trust funds.
58.270 Authority tax-exempt.
58.275 Acquisition of property -- Condemnation.
58.280 Operation and maintenance of project by lessee.
58.285 Local governments may convey or lease to authority, procedure.
58.290 Conveyance to lessee, when.
58.295 Compensation for damage to private property.
58.300 Engineering and other studies authorized -- Expense, how paid.
58.305 Annual report of authority -- Audit.
58.310 Officer or employee not to purchase bonds, penalty.
58.315 Act supplemental to other powers.

Section 8. The General Assembly confirms Executive Order 97-1327, issued by the Governor October 13, 1997, to the extent that it is not otherwise confirmed by Sections 1 through 7 of this Act.

HB 356, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 42.660 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 36 TO READ AS FOLLOWS:

As used in ***Sections 1 to 5 of this Act***~~[KRS 42.660 to 42.680]~~:

(1) "Board" means the Kentucky Community Crisis Response Board;

(2) "Community crisis response team" means the statewide membership of trained volunteers that provide crisis response services under the direction of the board;

(3) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services to persons impacted by crisis or disaster, but shall not be construed to include any services performed or intended to be performed by any other agency of the Commonwealth, any of its subdivisions, or any private party under KRS Chapter 224 or 39;

(4) "Debriefing session" means the crisis response services rendered during or after a crisis or disaster; and

(5) "Local community crisis response team" means a team formed to provide crisis response services in a county, district, or region and which operates in accordance with protocols and procedures established by the board.

SECTION 2. KRS 42.665 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 36 TO READ AS FOLLOWS:

(1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the ***Department of Military Affairs***~~[Finance and Administration Cabinet]~~.

(2) The membership of the board shall consist of the following:

(a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;

(b) The commissioner of the Department for Health Services, or the commissioner's designee;

(c) The commissioner of the Department of Education, or the commissioner's designee;

(d) The commissioner of the Kentucky State Police, or the commissioner's designee;

(e) The Kentucky state fire marshal, or the fire marshal's designee;

(f) The executive director of the Division of Disaster and Emergency Services, or the executive director's designee;

(g) The Attorney General, or the Attorney General's designee;

(h) One (1) representative of local community crisis response teams appointed by the Governor;

(i) Four (4) members appointed by the Governor to represent mental health disciplines;

(j) Two (2) members appointed by the Governor to represent emergency services disciplines;~~[and]~~

(k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board***;***

(l) One (1) member, appointed by the Governor, from a state-wide chaplain's association involved in emergency services, who is trained in grief counseling and has experience in crisis response;

(m) One (1) member from the Kentucky Chapter of the American Red Cross; and

(n) The commissioner of the Department for Social Services or the commissioner's designee.

(3) All board members appointed pursuant to subsections (2)(h) to (2)***(l)***[~~(k)~~] of this section shall be approved members of the existing community crisis response team.

(4) All board members appointed pursuant to subsections (2)(h) to (2)***(l)***[~~(k)~~] of this section shall have demonstrated a commitment to the provision of community crisis response services.

(5) The members of the board appointed by the Governor shall serve for two (2) years, and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.

(6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.

(7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.

(8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in ***Section 3 of this Act***[~~KRS 42.670(7)~~], nothing in ***the provisions of Sections 1 to 5 of this Act***[~~KRS 42.660 to 42.680~~] shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

SECTION 3. KRS 42.670 IS HEREBY REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 36 TO READ AS FOLLOWS:

The board shall:

(1) Establish and maintain necessary offices, appoint an executive director, and hire other employees as necessary and prescribe their duties and compensation;

(2) Recruit and train volunteer members who shall comprise the community crisis response team;

(3) Maintain a team of volunteer members to provide crisis response services statewide;

(4) Provide technical assistance for the development of local community crisis response teams;

(5) Promulgate administrative regulations pursuant to KRS Chapter 13A relating to the operation of crisis response services;

(6) Provide training programs on the operation of the crisis response teams and the provision of crisis response services;

(7) Develop agreements with agencies in both the public and private sectors;

(8) Promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to execute the duties of the board;

(9) Make recommendations to the Governor and to the General Assembly related to the planning and provision of crisis response services; and

(10) Receive funding from any source and apply for public and private grants as it deems necessary.

SECTION 4. KRS 42.675 IS HEREBY REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 36 TO READ AS FOLLOWS:

If any member of the board or any member of a crisis response team authorized by ***Sections 1 to 5 of this Act***[~~KRS 42.660 to 42.680~~] does any act in the discharge of his duty that causes him to be proceeded against by civil court action, the Attorney General shall represent him in the civil proceedings.

SECTION 5. KRS 42.680 IS HEREBY REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 36 TO READ AS FOLLOWS:

Whenever the employees of the Commonwealth of Kentucky or any county, urban-county, charter county, or city government, are rendering outside aid pursuant to the authority contained in ***Sections 1 to 5 of this Act***[~~KRS 42.660 to 42.680~~], those employees shall have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the jurisdiction in which they are normally employed.

Section 6. KRE 506 is amended to read as follows:

(a) Definitions. As used in this rule:

(1) A "counselor" includes:

(A) A certified school counselor who meets the requirements of the Kentucky Board of Education and who is duly appointed and regularly employed for the purpose of counseling in a public or private school of this state;

(B) A sexual assault counselor, who is a person engaged in a rape crisis center, as defined in KRS Chapter

421, who has undergone forty (40) hours of training and is under the control of a direct services supervisor of a rape crisis center, whose primary purpose is the rendering of advice, counseling, or assistance to victims of sexual assault;

(C) A certified professional art therapist who is engaged to conduct art therapy pursuant to KRS 309.130 to 309.1399;

(D) A certified marriage and family therapist as defined in KRS 335.300 who is engaged to conduct marriage and family therapy pursuant to KRS 335.300 to 335.399;

(E) A certified professional counselor as defined in KRS 335.500;

(F) An individual who provides crisis response services as a member of the community crisis response team or local community crisis response team pursuant to ***Sections 1 to 5 of this Act***~~[KRS 42.660 to 42.680]~~; and

(G) A victim advocate as defined in KRS 421.570 except a victim advocate who is employed by a Commonwealth's attorney pursuant to KRS 15.760 or a county attorney pursuant to KRS 69.350.

(2) A "client" is a person who consults or is interviewed or assisted by a counselor for the purpose of obtaining professional or crisis response services from the counselor.

(3) A communication is "confidential" if it is not intended to be disclosed to third persons, except persons present to further the interest of the client in the consultation or interview, persons reasonably necessary for the transmission of the communication, or persons present during the communication at the direction of the counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of counseling the client, between himself, his counselor, and persons present at the direction of the counselor, including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, his guardian or conservator, or the personal representative of a deceased client. The person who was the counselor (or that person's employer) may claim the privilege in the absence of the client, but only on behalf of the client.

(d) Exceptions. There is no privilege under this rule for any relevant communication:

(1) If the client is asserting his physical, mental, or emotional condition as an element of a claim or defense; or, after the client's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.

(2) If the judge finds:

(A) That the substance of the communication is relevant to an essential issue in the case;

(B) That there are no available alternate means to obtain the substantial equivalent of the communication; and

(C) That the need for the information outweighs the interest protected by the privilege. The court may receive evidence in camera to make findings under this rule.

Section 7. The General Assembly hereby confirms Executive Order 97-827, dated July 3, 1997, transferring the Kentucky Community Crisis Response Board and the Office of Kentucky Community Crisis Response from the Finance and Administration Cabinet to the Department of Military Affairs, to this extent it is not otherwise confirmed by this Act.

HB 357, AN ACT relating to the reorganization of the Finance and Administration Order.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.027 is amended to read as follows:

(1) The Department for Facilities Management established in the Finance and Administration Cabinet by KRS 42.014 shall be generally responsible for performance of the cabinet's functions and duties as outlined in KRS Chapters 45, 45A, and 56 with relation to the management and administration of the State Capital Construction Program, including without limitation to the generality thereof, the procurement of necessary consulting services related to capital construction and building renovation projects, construction services, and supervision of building construction projects, and for the maintenance and operation of the state government's telecommunications systems, real property management functions, and physical plant management functions. The department shall be divided for administrative and operational purposes into a Division of Engineering, a Division of Contracting and Administration, a Division of Telecommunications, a Division of ***Building Services***~~[Physical Plant]~~, ***a Division of Mechanical Maintenance and Operations,*** a Division of Real Property, and a Division of Historic Properties, each of which shall be headed by a director appointed by the secretary, subject to the approval of the Governor and responsible to the commissioner. The commissioner shall provide for the distribution of the department's work among the divisions within the department.

(2) In conjunction with the responsibilities listed in subsection (1) of this section, the Department for Facilities Management

shall have the following duties:

(a) Establish policies to ensure efficient utilization of state property by:

  1. Requiring the development of guidelines which set forth space standards and criteria for determining the space needs of state agencies, and maintaining an inventory which tracks the agencies' compliance with those standards and criteria; and
  2. Requiring certification of compliance, or justification for exceptions, as a criterion for approval of additional space.

(b) Establish policies to ensure effective planning for state facilities by:

  1. Developing a long-range plan for the Frankfort area, with priority on reducing dependency on leased space and encouraging the consolidation of agencies' central offices into single locations, and shared offices for agencies with similar functions; and
  2. Developing long-range plans for housing state agencies in metropolitan areas, with priority on centralization of services and coordination of service delivery systems; and
  3. Encouraging executive branch agencies to expand long-range planning efforts, consistent with the policies of the Capital Planning Advisory Board; and
  4. Supporting long-range planning for a statewide information technology infrastructure to more efficiently deliver state government services.

(c) Establish priorities to allow least-cost financing of state facilities by:

  1. Initiating policies which authorize the state to use innovative methods to lease, purchase, or construct necessary facilities; and
  2. Requiring cost analysis to determine the most effective method of meeting space needs, with consideration for ongoing operations and initial acquisition.

(3) The Department for Facilities Management shall develop plans for the placement of computing and communications equipment in all facilities owned or leased by state government. As part of this planning process, the department shall:

(a) Provide adequate site preparation in all state-owned facilities, and require the same of those from whom the state leases space, as part of the lease agreement;

(b) Fund a minimum level of site preparation for computing and communications in each new state-owned facility; and

(c) As new office sites are developed, or existing ones undergo renovation, consider the placement of shareable high-cost, high-value facilities at strategic locations throughout the state. These facilities may include video teleconference centers, optical scanning and storage services, and gateways to high-speed communication networks.

Section 2. The General Assembly confirms Executive Order 97-892, dated July 17, 1997, relating to the reorganization of the Finance and Administration Cabinet, to the extent it is not otherwise confirmed by this Act.

The Committee Amendment No. 1 Title to **HB 357** is as follows:

On page 1, by adding after the word "Administration" the word "Cabinet" and by deleting the word "Order".

HB 358, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 97-891, dated July 17, 1997, which creates the Division of Detention Programs and the Division of Educational Services in the Department of Juvenile Justice within the Justice Cabinet and which changes the names of certain Department of Juvenile Justice facilities from: Central Kentucky Treatment Center to Central Kentucky Youth Development Center; Green River Treatment Center to Green River Youth Development Center; Johnson-Breckinridge Treatment Center to Johnson-Breckinridge Youth Development Center; Lake Cumberland Treatment Center to Lake Cumberland Youth Development Center; Lincoln Village Treatment Center to Lincoln Village Youth Development Center; Mayfield Treatment Center to Mayfield Youth Development Center; Morehead Treatment Center to Morehead Youth Development Center; Northern Kentucky Treatment Center to Northern Kentucky Youth Development Center; Rice-Audobon Treatment Center to Rice-Audobon Youth Development Center; and Woodsbend Treatment Center to Woodsbend Youth Development Center.

HB 364, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Medical Examiner Program.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:
    (a) Department of Education.
      (1) Kentucky Board of Education.
      (2) Education Professional Standards Board.
    (b) Department for Libraries and Archives.
    (c) Kentucky Arts Council.
    (d) Kentucky Educational Television.
    (e) Kentucky Historical Society.

(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Office of Development.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of Aeronautics.
(g) Office of General Counsel.
(h) Office of Public Relations.
(i) Office of Personnel Management.
(j) Office of Minority Affairs.
(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.

    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
7. Cabinet for Human Resources:
    (a) Department for Health Services.
    (b) Department for Social Insurance.
    (c) Department for Social Services.
    (d) Department for Medicaid Services.
    (e) Department for Mental Health and Mental Retardation Services.
    (f) Commission for Children with Special Health Care Needs.
    (g) Public Assistance Appeals Board.
    (h) Office of Administrative Services.
    (i) Office of Communications.
    (j) Office of General Counsel.
    (k) Office of Inspector General.
    (l) Office of Policy and Budget.
    (m) Office of the Ombudsman.
8. Finance and Administration Cabinet:
    (a) Office of Legal and Legislative Services.
    (b) Office of Management and Budget.
    (c) Office of Financial Management and Economic Analysis.
    (d) Office of the Controller.
    (e) Department for Administration.
    (f) Department of Facilities Management.
    (g) Department of Information Systems.
    (h) State Property and Buildings Commission.
    (i) Kentucky Pollution Abatement Authority.
    (j) Kentucky Savings Bond Authority.
    (k) Deferred Compensation Systems.
    (l) Office of Equal Employment Opportunity Contract Compliance.
    (m) Capital Plaza Authority.
    (n) County Officials Compensation Board.
    (o) Kentucky Employees Retirement Systems.
    (p) Commonwealth Credit Union.
    (q) State Investment Commission.
    (r) Kentucky Housing Corporation.
    (s) Governmental Services Center.
    (t) Kentucky Local Correctional Facilities Construction Authority.
    (u) Kentucky Turnpike Authority.
    (v) Historic Properties Advisory Commission.
9. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy ***and***[~~,~~] Budget[~~, and Personnel~~].
(q) Office of Personnel Services.
(r)[~~(q)~~] Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
(a) Kentucky Community Service Commission.
4. Department of Local Government.

5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 2. KRS 151B.020 is amended to read as follows:

(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department for Adult Education and Literacy, which is created by KRS 151B.023;
(b) The Department for Technical Education, which is created by KRS 151B.025;
(c) The Department of Vocational Rehabilitation, which is created by KRS 151B.185;
(d) The Department for the Blind, established by KRS 163.470;
(e) The Department for Employment Services, which is created by KRS 151B.280;
(f) The State Board for Adult and Technical Education, which is created by KRS 151B.095;
(g) The Governor's Council on Vocational Education, established by KRS 163.086;
(h) The State Board for Proprietary Education, established by KRS 165A.340;
(i) The Foundation for Adult Education, established by KRS 151B.130;
(j) The Kentucky Job Training Coordinating Council, established by KRS 151B.220;
(k) The Unemployment Insurance Commission established by KRS 341.110;
(l) The Office of Training and Reemployment created in KRS 151B.260; and
(m) The Office of School-to-Work, established by KRS 151B.250.

(3) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, the Office for Policy ***and***~~[,]~~ Budget,~~[and Personnel]~~ ***the Office of Personnel Services***, and the Office for Administrative Services.~~[The Office for Policy, Budget, and Personnel shall contain the Division of Personnel Services, which shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.]~~ The Office for Administrative Services shall contain the Divisions of Fiscal Services, Computer Services, and Facilities Management. Each division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.

(4) The secretary of the Cabinet for Workforce Development and his designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the Cabinet for Workforce Development may delegate any duties of his office to employees of the cabinet as he deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the Cabinet for Workforce Development shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

Section 3. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has

been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities, and the Kentucky Community and Technical College System and any community colleges or technical institutions established under its control;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy[~~,~~] ***and*** Budget[~~, and Personnel~~] within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l)[~~(k)~~] The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m)[~~(l)~~] The Department of Vocational Rehabilitation;

(n)[~~(m)~~] The Kentucky Educational Collaborative for State Agency Children;

(o)[~~(n)~~] The Governor's Scholars Program; and

(p)[~~(o)~~] Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for

service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. However, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 4. The General Assembly confirms Executive Order 97-1117, dated August 28, 1997, relating to the reorganization of the Cabinet for Workforce Development, to the extent it is not otherwise confirmed by this Act. All personnel, records, files, equipment, and funds assigned to or appropriated to the Division of Personnel Services within the Office for Policy, Budget and Personnel are hereby assigned and appropriated to the newly created Office of Personnel Services and shall be assigned to such organizational entities as deemed appropriate by the Secretary of the Cabinet and set forth by Administrative Order.

HB 365, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.760 is amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky ***Commission on Community Volunteerism and Service***[~~Community Service Commission~~].

(2) The Kentucky ***Commission on Community Volunteerism and Service***[~~Community Service Commission~~] is created and shall be attached to the Council on Postsecondary Education for administrative purposes only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on Postsecondary Education and the Department of Education. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

(a) Secretary of State.

(b) Board of Elections.

(c) Registry of Election Finance.

4. Department of Law.

(a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Department of Corrections.

(d) Department of Juvenile Justice.

(e) Office of the Secretary.

(f) Offices of the Deputy Secretaries.

(g) Office of General Counsel.

(h) Medical Examiner Program.

(i) Parole Board.

(j) Kentucky State Corrections Commission.

(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:

(a) Department of Education.

(1) Kentucky Board of Education.

(2) Education Professional Standards Board.

(b) Department for Libraries and Archives.

(c) Kentucky Arts Council.

(d) Kentucky Educational Television.

(e) Kentucky Historical Society.

(f) Kentucky Teachers' Retirement System Board of Trustees.

(g) Kentucky Center for the Arts.

(h) Kentucky Craft Marketing Program.

(i) Kentucky Commission on the Deaf and Hard of Hearing.

(j) Governor's Scholars Program.

(k) Governor's School for the Arts.

(l) Office of Development.

(m) Kentucky Heritage Council.

(n) Kentucky African-American Heritage Commission.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Office of Legal Services.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

(k) Office of Environmental Affairs.

5. Cabinet for Economic Development:

(a) Department of Administration and Support.

(b) Department of Job Development.

(c) Department of Financial Incentives.

(d) Department of Community Development.

(e) Tobacco Research Board.

(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.

7. Cabinet for Human Resources:
(a) Department for Health Services.
(b) Department for Social Insurance.
(c) Department for Social Services.
(d) Department for Medicaid Services.
(e) Department for Mental Health and Mental Retardation Services.
(f) Commission for Children with Special Health Care Needs.
(g) Public Assistance Appeals Board.
(h) Office of Administrative Services.
(i) Office of Communications.
(j) Office of General Counsel.
(k) Office of Inspector General.
(l) Office of Policy and Budget.
(m) Office of the Ombudsman.

8. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Capital Plaza Authority.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.

9. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor Management Relations.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
(a) Department of Property Taxation.
(b) Department of Compliance and Taxpayer Assistance.
(c) Department of Administrative Services.
(d) Office of General Counsel.

11. Tourism Cabinet:
(a) Department of Travel Development.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of Film Promotion.
(h) Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.
3. Council on Postsecondary Education.
   (a) Kentucky ***Commission on Community Volunteerism and Service***[~~Community Service Commission~~].
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 3. The General Assembly hereby confirms Executive Order 97-1291, dated October 2, 1997, to the extent it is not otherwise confirmed or superseded by this Act.

HB 383, AN ACT relating to the Auditor of Public Accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 43.030 is amended to read as follows:

(1) The Auditor shall appoint for the duration of his own term, subject to removal by him at any time, one (1) assistant auditor of public accounts, who shall be a certified public accountant and who has been a citizen and resident of the state for at least two (2) years. The assistant auditor shall have direct supervision over all technical work and technical assistants, and shall otherwise aid the Auditor in the performance of his duties. If the Auditor is absent or is rendered incapable of performing his duties, or if a vacancy in the office occurs, the assistant auditor shall perform the duties of Auditor until the necessity therefor ceases to exist. He shall take the constitutional oath.

(2) The Auditor may employ other subordinate personnel subject to the provisions of KRS 12.060. All employees engaged in auditing or investigations shall possess a minimum of a four (4) year college degree. ***No***[~~ and no~~] less than ninety percent (90%) of ***all employees engaged in financial auditing or financial investigations***[~~the professional staff~~] shall have twenty (20) semester hours or thirty (30) quarter hours of accounting, or alternately, shall be a certified public accountant. Not more than two (2) persons charged with the conduct of audits and investigations may substitute year-for-year responsible experience acceptable to the Department of Personnel for the required college education and accounting hours.

(3) The Auditor and his sureties are liable on his official bond for the acts of the assistant auditor and clerks.

(4) Nothing in this section shall be deemed to affect the provisions of KRS 11.090 or other legislation authorizing audits.

Section 2. KRS 43.050 is amended to read as follows:

(1) The Auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the General Assembly to provide for the independent auditing of the accounts,[~~ and~~] financial transactions, ***and performance*** of all spending agencies of the state through a disinterested auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The Auditor shall:

   (a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records, and transactions of the budget units, and the general accounts of the state.

   (b) Make a complete audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state, when an audit is demanded in writing by the Legislative Research Commission, the secretary of the Finance and Administration Cabinet or the Governor, and may make an audit when it is not so demanded.

   (c) Examine ***periodically***[~~annually~~] the ***performance,*** management, conduct, and condition of all asylums, prisons, institutions for the mentally retarded, and eleemosynary institutions;[~~ and~~] public works owned, operated, or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power***; and state agencies.***[~~,~~] ***The examinations shall give***[~~giving~~] special attention to the faithful and economical application of any money appropriated by the state to the institution,[~~ or~~] public works***, or state agency*** examined, or of any money in which the state has an interest.

   (d) Examine annually the management and condition of the offices of the Finance and Administration Cabinet, the State Treasurer, and the chief state school officer, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

   (e) Examine, at least biennially, the Finance and Administration Cabinet's compliance with KRS 56.800 to 56.823 and this section, KRS 48.111, and KRS 48.190. Within sixty (60) days of the completion of each examination, the Auditor shall report his findings and recommendations to the Capital Projects and Bond Oversight Committee.

(f) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make the collections.

(g) Make special audits and investigations when required by the Governor.

(h) Investigate the means of accounting for, controlling, and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(i) Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each branch budget recommendation, and certify in writing the results of the audit and examination with the comments he deems necessary for the information of the General Assembly, his certificate and comments to be included with the statements and estimates as presented in the branch budget recommendation.

(j) Report immediately in writing to the Governor, each member of the Legislative Research Commission, and the secretary of the Finance and Administration Cabinet, any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure, or practice is contemplated, and any obstruction of the Auditor or his agents during the conduct of any audit or investigation of a state agency.

(k) Assist the Legislative Research Commission at hearings and investigations conducted by it and cooperate with the Legislative Research Commission in the preparation of its reports to the General Assembly.

(l) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and the accounts he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The Auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect, or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The Auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of the funds or property in the course of the audits provided for in this section.

Section 3. The General Assembly hereby confirms Executive Order APA 97-01, effective May 16, 1997, relating to the reorganization of the Office of the Auditor of Public Accounts and providing that:

(1) The Offices of Administrative Services and Program Services, and the Divisions of State Audit and County Audits are abolished.

(2) The Office of the Auditor of Public Accounts shall consist of the following sub-units to which the responsibilities, records, equipment, personnel, and funds of the sub-units abolished in subsection (1) of this section are transferred:

(1) The Office of State Auditor, which is retained;

(2) The Office of Planning and Management, which is created and shall be responsible for fiscal matters, personnel matters, and the production, retention, distribution, and disposition of records and reports of the Auditor of Public Accounts;

(3) The Office of Quality Assurance and Consultation, which is created and shall be responsible for financial audits and financial investigations;

(4) The Division of Financial Audit, which is created and shall be responsible for financial audits and financial investigations;

(5) The Division of Performance Audit, which is created and shall be responsible for performance audits and performance investigations; and

(6) The Division of Examination and Information Technology, which is created and shall be responsible for internal technology systems, information system audits, responding to citizens' complaints, and analysis of investments.

The Committee Substitute to **HB 383** is as follows:

AN ACT relating to the Auditor of Public Accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 43.030 is amended to read as follows:

(1) The Auditor shall appoint for the duration of his own term, subject to removal by him at any time, one (1) assistant auditor of public accounts, who shall be a certified public accountant and who has been a citizen and resident of the state for at least two (2) years. The assistant auditor shall have direct supervision over all technical work and technical assistants, and shall otherwise aid the Auditor in the performance of his duties. If the Auditor is absent or is rendered incapable of performing his duties, or if a vacancy in the office occurs, the assistant auditor shall perform the duties of Auditor until the necessity therefor ceases to exist. He shall take the constitutional oath.

(2) The Auditor may employ other subordinate personnel subject to the provisions of KRS 12.060. All employees engaged in auditing or investigations shall possess a minimum of a four (4) year college degree***. No***[~~ and no~~] less than ninety percent (90%) of ***all employees engaged in financial auditing or financial investigations***[~~the professional staff~~] shall have twenty (20) semester hours or thirty (30) quarter hours of accounting, or alternately, shall be a certified public accountant. Not more than two (2) persons charged with the conduct of audits and investigations may substitute year-for-year responsible experience acceptable to the Department of Personnel for the required college education and accounting hours.

(3) The Auditor and his sureties are liable on his official bond for the acts of the assistant auditor and clerks.

(4) Nothing in this section shall be deemed to affect the provisions of KRS 11.090 or other legislation authorizing audits.

Section 2. KRS 43.050 is amended to read as follows:

(1) The Auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the General Assembly to provide for the independent auditing of the accounts***,***[~~ and~~] financial transactions***, and performance*** of all spending agencies of the state through a disinterested auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The Auditor shall:

(a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records, and transactions of the budget units, and the general accounts of the state.

(b) Make a complete audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state, when an audit is demanded in writing by the Legislative Research Commission, the secretary of the Finance and Administration Cabinet or the Governor, and may make an audit when it is not so demanded.

(c) Examine ***periodically***[~~annually~~] the ***performance,*** management, conduct, and condition of all asylums, prisons, institutions for the mentally retarded, and eleemosynary institutions***;***[~~ and~~] public works owned, operated, or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power***; and state agencies.***[~~,~~] ***The examinations shall give***[~~giving~~] special attention to the faithful and economical application of any money appropriated by the state to the institution***,***[~~ or~~] public works***, or state agency*** examined, or of any money in which the state has an interest.

(d) Examine annually the management and condition of the offices of the Finance and Administration Cabinet, the State Treasurer, and the chief state school officer, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

(e) Examine, at least biennially, the Finance and Administration Cabinet's compliance with KRS 56.800 to 56.823 and this section, KRS 48.111, and KRS 48.190. Within sixty (60) days of the completion of each examination, the Auditor shall report his findings and recommendations to the Capital Projects and Bond Oversight Committee.

(f) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make the collections.

(g) Make special audits and investigations when required by the Governor.

(h) Investigate the means of accounting for, controlling, and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(i) Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each branch budget recommendation, and certify in writing the results of the audit and examination with the comments he deems necessary for the information of the General Assembly, his certificate and comments to be included with the statements and estimates as presented in the branch budget recommendation.

(j) Report immediately in writing to the Governor, each member of the Legislative Research Commission, and the secretary of the Finance and Administration Cabinet, any unauthorized, illegal, irregular, or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure, or practice is contemplated, and any obstruction of the Auditor or his agents during the conduct of any audit or investigation of a state agency.

(k) Assist the Legislative Research Commission at hearings and investigations conducted by it and cooperate with the Legislative Research Commission in the preparation of its reports to the General Assembly.

(l) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and the accounts he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The Auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect, or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The Auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of the funds or property in the course of the audits provided for in this section.

Section 3. The General Assembly hereby confirms Executive Order APA 97-01, effective May 16, 1997, relating to the reorganization of the Office of the Auditor of Public Accounts and providing that:

(1) The Offices of Administrative Services and Program Services, and the Divisions of State Audit and County Audits are abolished.

(2) The Office of the Auditor of Public Accounts shall consist of the following sub-units to which the responsibilities, records, equipment, personnel, and funds of the sub-units abolished in subsection (1) of this section are transferred:

(1) The Office of State Auditor, which is retained;

(2) The Office of Planning and Management, which is created and shall be responsible for fiscal matters, personnel matters, and the production, retention, distribution, and disposition of records and reports of the Auditor of Public Accounts;

(3) The Office of Quality Assurance and Consultation, which is created and shall be responsible for training and quality control;

(4) The Division of Financial Audit, which is created and shall be responsible for financial audits and financial investigations;

(5) The Division of Performance Audit, which is created and shall be responsible for performance audits and performance investigations; and

(6) The Division of Examination and Information Technology, which is created and shall be responsible for internal technology systems, information system audits, responding to citizens' complaints, and analysis of investments.

HB 392, AN ACT relating to the selection of underwriters and bond counsel firms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.847 is amended to read as follows:

(1) ***After a person has been appointed to***[~~Before a person joins~~] a selection committee, he shall receive an orientation from the office. The orientation shall include, but not be limited to, an explanation of all statutes and administrative regulations pertaining to the person's service on the selection committee.

(2) For administrative purposes, a selection committee shall be attached to the office.

(3) The office shall provide a selection committee with:

(a) Suitable quarters in Frankfort, Kentucky, in which to conduct its business;

(b) Staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and

(c) Office supplies.

Section 2. KRS 45A.850 is amended to read as follows:

(1) (a)[~~ Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.~~

~~(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.~~

~~(2) (a)~~] Pursuant to KRS 45A.853 and 45A.857, one (1) ***or more underwriters***[~~underwriter~~] and one (1) ***or more*** bond counsel ***firms*** shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;

2. Kentucky Housing Corporation;

3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation;[~~ and~~]
7. Kentucky Local Correctional Facilities Construction Authority***; and***
8. State Property and Buildings Commission.

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond ***issuances***[~~issuance~~] over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(2)[~~(3)~~] (a) Pursuant to KRS 45A.853 and 45A.857, one (1) ***or more underwriters***[~~underwriter~~] and one (1) ***or more*** bond counsel ***firms*** shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;
9. Eastern Kentucky University; and
10. Kentucky Community and Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond ***issuances***[~~issuance~~] of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3)[~~(4)~~] Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months. If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4)[~~(5)~~] The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued;

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 3. KRS 45A.853 is amended to read as follows:

(1) (a) A firm shall not be considered for providing underwriting or bond counsel services unless the office has

prequalified the firm prior to the date of issuance of the request for proposals.

(b) A firm's prequalification shall remain in effect for ***twenty-four (24)***[~~twelve (12)~~] months from the date of prequalification.

(2) (a) The office shall consult with the bond issuing agency before arriving at a request for proposals. The request for proposals shall include, but not be limited to:

1. The deadline for posing written questions about the request for proposals to the selection committee chairman elected pursuant to subsection (7)(b) of this section. This deadline shall occur before the deadline for filing a written response to a request for proposals;
2. The deadline for filing a written response;
3. A description of the services sought;
4. A description of the skills required to perform the services;
5. A description of evaluation factors and their relative weight; and
6. In the case of a request for proposals from bond counsel firms, a requirement to submit proposed fees and expenses.

(b) The office shall provide materials to the firms which have prequalified pursuant to subsection (1) of this section. The materials shall include, but not be limited to, the request for proposals and the evaluation sheet to be used by the relevant selection committee.

(3) Prior to the deadline for posing questions established in the request for proposals, a firm may pose written questions about the request for proposals to the selection committee chairman. The chairman, shall respond in writing. If, in the discretion of the chairman, an answer could have a material effect on other respondents' proposals, then both the question and the answer shall be distributed to all firms at the same time prior to the deadline for the filing of responses to the request for proposals.

(4) A firm shall file a written response to the request for proposals prior to the deadline for filing a written response established in the request for proposals. A firm which fails to meet the deadline shall be barred from the procurement process.

(5) The employees of the office and the members of the selection committee shall keep all responses to a request for proposals confidential until the contract to the winning firm has been awarded.

(6) The executive director of the office shall designate an office employee to identify which firms prequalified pursuant to subsection (1) of this section and filed, in a timely fashion, a written response to a request for proposals. He shall create a list of firms which have done so and certify the list.

(7) The office shall organize the selection committee's first meeting. At that meeting, each selection committee member shall sign a statement of confidentiality. Also, at that meeting, the selection committee shall:

(a) Determine whether a majority of the voting members are merit employees of the Commonwealth. If a majority are not merit employees, the selection committee shall disband, and another selection committee shall be selected pursuant to KRS 45A.843. A majority of its voting members shall be merit employees of the Commonwealth;

(b) Elect from among the voting members of the committee a chairman and vice chairman who shall hold their positions for the duration of the selection committee's involvement in the bond issuance;

(c) Be provided with:

1. The certified list created pursuant to subsection (6) of this section;

2. If applicable, an out-of-state firm's preference handicap created pursuant to KRS 45A.873(1);

3.[~~Written questions and answers produced pursuant to subsection (3) of this section;~~

~~4. The firms' responses to the request for proposals;~~

~~5.~~] The request for proposals;

4.[~~6.~~] Forms for keeping a log of all contacts with firms which have responded to the request for proposals as well as contacts with persons acting on behalf of those firms. Each committee member shall keep a log which shall summarize the subject of any contact and state the date and place of the contact; and

5.[~~7.~~] The selection evaluation sheets; and

(d) Discuss the future conduct of its affairs.

(8) At the second meeting of a selection committee, the committee shall:

(a) Be provided with the following:

1. Written questions and answers produced pursuant to subsection (3) of this section; and

2. The firms' responses to the request for proposals; and

(b) Discuss the future conduct of its affairs.

Section 4. KRS 45A.857 is amended to read as follows:

(1) A selection committee shall meet in executive session to:

(a) Evaluate the materials with which it has been provided;

(b) Select the ***two (2)***[~~three (3)~~] to five (5) most qualified firms based upon the weighted evaluation factors in the request for proposals; and

(c) Rank the firms.

(2) In executive session, a selection committee, at its discretion by majority vote, shall determine whether not to interview and to leave the rankings in place, or to interview the ***two (2)***[~~three (3)~~] to five (5) firms to arrive at new rankings. If the selection committee decides not to interview and to leave the rankings in place, the [~~top three (3) ranked firms shall be made finalists. The~~]winning firm shall be chosen pursuant to paragraph (a) or paragraph (b) of subsection (4) of this section, as appropriate.

(3) (a) If the selection committee decides to interview the ***two (2)***[~~three (3)~~] to five (5) firms, it shall do so preferably on the same day. The firms shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the firm and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the contract to the winning firm is awarded.

(b) After the ***two (2)***[~~three (3)~~] to five (5) firms have been interviewed, the selection committee shall meet in executive session to:

1. Rank the[~~ three (3) to five (5)~~] firms ***interviewed*** based upon the weighted evaluation factors established in the request for proposals; and

2. Forward the rankings to the executive director.

(c)[~~ The top three (3) ranked firms shall be made finalists.~~

~~(d)~~] The winning firm shall be awarded pursuant to paragraph (a) or paragraph (b) of subsection (4) of this section, as appropriate.

(4) (a) For underwriter services:

1. The name of the top-ranked underwriter firm shall be provided to the executive director. He shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection. The secretary shall order that procurement proceed under subparagraph 2. of this paragraph, or he shall order that the procurement procedure start again from the beginning pursuant to KRS 45A.843. The secretary shall state in writing the reasons for his actions.

2. The executive director of the office shall negotiate a contract with the top-ranked underwriter firm, as determined by the selection committee, at compensation which the executive director determines in writing to be fair and reasonable to the Commonwealth. In making this decision, he shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the executive director be able to negotiate a satisfactory price, the top-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his justifications for the negotiated price.

3. Should the executive director be unable to negotiate a satisfactory contract with the top-ranking firm, at a price that he considers fair and reasonable to the Commonwealth, he shall formally terminate negotiations with the firm. The selection committee shall provide the executive director the name of the second-ranked firm. The executive director shall then undertake price negotiations with the second-ranked firm. Should the executive director be able to negotiate a satisfactory price, the second-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his justifications for the negotiated price.

4. Failing accord with the second-ranked firm, the executive director shall formally terminate negotiations. The selection committee shall provide the executive director the name of the third-ranked firm***, if any***. The executive director shall then undertake price negotiations with the third-ranked firm. Should the executive director be able to negotiate a satisfactory price, the third-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the price. Should the executive director be unable to negotiate a satisfactory contract with the third-ranked firm, he shall formally terminate negotiations, and the procurement procedure shall start again from the beginning pursuant to KRS 45A.843.

(b) For bond counsel services:

1.[~~ The top-ranked bond counsel firm shall be contacted to confirm its fee proposal in writing.~~

~~2.~~] The name of the top-ranked firm shall be provided to the executive director.[~~ The executive director shall~~

~~award the contract to the top-ranked firm unless the firm's final fee proposal is higher than the one submitted in its response to the request for proposal.~~] The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection and the secretary shall order the hiring or not of the firm. The secretary shall state in writing his reasons for his actions.

2.[~~3.~~] ***If the executive director does not agree with the selection recommended by the selection committee,***[~~However, if the firm's fee proposal is higher than the one submitted in its response to the request for proposals, then that firm shall not be further considered, and~~] the name of the second-ranked firm shall be submitted to the executive director.[~~The second-ranked firm shall be contacted to confirm its fee proposal in writing.~~] The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection ***of the second ranked firm***. The secretary shall order the hiring of the ***second ranked firm***[~~selected~~] firm, or he shall order that the procurement procedure shall start again from the beginning pursuant to KRS 45A.843. The secretary shall state in writing the reasons for his actions.

Section 5. KRS 45A.860 is amended to read as follows:

(1) After a winning underwriter or bond counsel contract has been awarded by the secretary of the Finance and Administration Cabinet pursuant to KRS. 45A.853 and 45A.857, the executive director shall supply the name of the firm to each member of the selection committee. The executive director shall also send a letter to each firm which responded to the request for proposals, informing the firm of the name of the underwriter or bond counsel which has been awarded the contract.

(2) The secretary of the Finance and Administration Cabinet, executive director, head of the relevant bond issuing agency, and each voting member of the selection committee shall sign separate certificates, devised by the office, which shall certify that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a willful violation of KRS 45A.840 to 45A.879 which has arisen in the procurement process.

(3) Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the Capital Projects and Bond Oversight Committee certifying that the applicable procedural provisions of KRS 45A.840 to 45A.879 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(4) The Finance and Administration Cabinet shall retain the logs created pursuant to KRS 45A.853(7)(c)***4.***[~~6.~~] and the completed selection evaluation sheets required by KRS 45A.853(7)(c)***5.***[~~7.~~] The Finance and Administration Cabinet shall permit the public to inspect these documents. Each evaluation sheet and each log shall be signed by the person who completed it. The cabinet shall permit the public to inspect these documents and shall not black out the signature of the person who signed the evaluation sheet or the log.

The Committee Substitute to **HB 392** is as follows:

AN ACT relating to the selection of underwriters and bond counsel firms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.847 is amended to read as follows:

(1) ***After a person has been appointed to***[~~Before a person joins~~] a selection committee, he shall receive an orientation from the office. The orientation shall include, but not be limited to, an explanation of all statutes and administrative regulations pertaining to the person's service on the selection committee.

(2) For administrative purposes, a selection committee shall be attached to the office.

(3) The office shall provide a selection committee with:

(a) Suitable quarters in Frankfort, Kentucky, in which to conduct its business;

(b) Staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and

(c) Office supplies.

Section 2. KRS 45A.850 is amended to read as follows:

(1) (a)[~~Pursuant to KRS 45A.853 and 45A.857, one (1) underwriter and one (1) bond counsel shall be chosen for the State Property and Buildings Commission.~~

~~(b) The underwriter and the bond counsel chosen for the commission shall provide their services for all bonds issued in one (1) bond project.~~

~~(2) (a)~~] Pursuant to KRS 45A.853 and 45A.857, one (1) ***or more underwriters***[~~underwriter~~] and one (1) ***or more*** bond counsel ***firms*** shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;
2. Kentucky Housing Corporation;
3. Kentucky Infrastructure Authority;
4. Kentucky Higher Education Student Loan Corporation;
5. Kentucky River Authority;
6. Kentucky Agricultural Finance Corporation;[~~ and~~]
7. Kentucky Local Correctional Facilities Construction Authority***; and***
8. ***State Property and Buildings Commission***.

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond ***issuances***[~~issuance~~] over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(2)[~~(3)~~] (a) Pursuant to KRS 45A.853 and 45A.857, one (1) ***or more underwriters***[~~underwriter~~] and one (1) ***or more*** bond counsel ***firms*** shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;
2. Murray State University;
3. Western Kentucky University;
4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
5. Northern Kentucky University;
6. Kentucky State University;
7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;
8. Morehead State University;
9. Eastern Kentucky University; and
10. Kentucky Community and Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond ***issuances***[~~issuance~~] of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3)[~~(4)~~] Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months. If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4)[~~(5)~~] The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued;
(b) Structure of the bond issue; and
(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

Section 3. KRS 45A.853 is amended to read as follows:

(1) (a) A firm shall not be considered for providing underwriting or bond counsel services unless the office has prequalified the firm prior to the date of issuance of the request for proposals.

(b) A firm's prequalification shall remain in effect for *twenty-four (24)*[~~twelve (12)~~] months from the date of prequalification.

(2) (a) The office shall consult with the bond issuing agency before arriving at a request for proposals. The request for proposals shall include, but not be limited to:

1. The deadline for posing written questions about the request for proposals to the selection committee chairman elected pursuant to subsection (7)(b) of this section. This deadline shall occur before the deadline for filing a written response to a request for proposals;
2. The deadline for filing a written response;
3. A description of the services sought;
4. A description of the skills required to perform the services;
5. A description of evaluation factors and their relative weight; and
6. In the case of a request for proposals from bond counsel firms, a requirement to submit proposed fees and expenses.

(b) The office shall provide materials to the firms which have prequalified pursuant to subsection (1) of this section. The materials shall include, but not be limited to, the request for proposals and the evaluation sheet to be used by the relevant selection committee.

(3) Prior to the deadline for posing questions established in the request for proposals, a firm may pose written questions about the request for proposals to the selection committee chairman. The chairman, shall respond in writing. If, in the discretion of the chairman, an answer could have a material effect on other respondents' proposals, then both the question and the answer shall be distributed to all firms at the same time prior to the deadline for the filing of responses to the request for proposals.

(4) A firm shall file a written response to the request for proposals prior to the deadline for filing a written response established in the request for proposals. A firm which fails to meet the deadline shall be barred from the procurement process.

(5) The employees of the office and the members of the selection committee shall keep all responses to a request for proposals confidential until the contract to the winning firm has been awarded.

(6) The executive director of the office shall designate an office employee to identify which firms prequalified pursuant to subsection (1) of this section and filed, in a timely fashion, a written response to a request for proposals. He shall create a list of firms which have done so and certify the list.

(7) The office shall organize the selection committee's first meeting. At that meeting, each selection committee member shall sign a statement of confidentiality. Also, at that meeting, the selection committee shall:

(a) Determine whether a majority of the voting members are merit employees of the Commonwealth. If a majority are not merit employees, the selection committee shall disband, and another selection committee shall be selected pursuant to KRS 45A.843. A majority of its voting members shall be merit employees of the Commonwealth;

(b) Elect from among the voting members of the committee a chairman and vice chairman who shall hold their positions for the duration of the selection committee's involvement in the bond issuance;

(c) Be provided with:

1. The certified list created pursuant to subsection (6) of this section;
2. If applicable, an out-of-state firm's preference handicap created pursuant to KRS 45A.873(1);
3.[~~Written questions and answers produced pursuant to subsection (3) of this section;~~]
[~~4. The firms' responses to the request for proposals;~~]
[~~5.~~] The request for proposals;
4.[~~6.~~] Forms for keeping a log of all contacts with firms which have responded to the request for proposals as well as contacts with persons acting on behalf of those firms. Each committee member shall keep a log which shall summarize the subject of any contact and state the date and place of the contact; and
5.[~~7.~~] The selection evaluation sheets; and

(d) Discuss the future conduct of its affairs.

(8) At the second meeting of a selection committee, the committee shall:

(a) Be provided with the following:

1. Written questions and answers produced pursuant to subsection (3) of this section; and

2. The firms' responses to the request for proposals; and

(b) Discuss the future conduct of its affairs.

Section 4. KRS 45A.857 is amended to read as follows:

(1) A selection committee shall meet in executive session to:

(a) Evaluate the materials with which it has been provided;

(b) Select the ***two (2)***[~~three (3)~~] to five (5) most qualified firms based upon the weighted evaluation factors in the request for proposals; and

(c) Rank the firms.

(2) In executive session, a selection committee, at its discretion by majority vote, shall determine whether not to interview and to leave the rankings in place, or to interview the ***two (2)***[~~three (3)~~] to five (5) firms to arrive at new rankings. If the selection committee decides not to interview and to leave the rankings in place, the [~~top three (3) ranked firms shall be made finalists. The~~]winning firm shall be chosen pursuant to paragraph (a) or paragraph (b) of subsection (4) of this section, as appropriate.

(3) (a) If the selection committee decides to interview the ***two (2)***[~~three (3)~~] to five (5) firms, it shall do so preferably on the same day. The firms shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the firm and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the contract to the winning firm is awarded.

(b) After the ***two (2)***[~~three (3)~~] to five (5) firms have been interviewed, the selection committee shall meet in executive session to:

1. Rank the[~~ three (3) to five (5)~~] firms ***interviewed*** based upon the weighted evaluation factors established in the request for proposals; and

2. Forward the rankings to the executive director.

(c)[~~ The top three (3) ranked firms shall be made finalists.~~

~~(d)~~] The winning firm shall be awarded pursuant to paragraph (a) or paragraph (b) of subsection (4) of this section, as appropriate.

(4) (a) For underwriter services:

1. The name of the top-ranked underwriter firm shall be provided to the executive director. He shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection. The secretary shall order that procurement proceed under subparagraph 2. of this paragraph, or he shall order that the procurement procedure start again from the beginning pursuant to KRS 45A.843. The secretary shall state in writing the reasons for his actions.

2. The executive director of the office shall negotiate a contract with the top-ranked underwriter firm, as determined by the selection committee, at compensation which the executive director determines in writing to be fair and reasonable to the Commonwealth. In making this decision, he shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the executive director be able to negotiate a satisfactory price, the top-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his justifications for the negotiated price.

3. Should the executive director be unable to negotiate a satisfactory contract with the top-ranking firm, at a price that he considers fair and reasonable to the Commonwealth, he shall formally terminate negotiations with the firm. The selection committee shall provide the executive director the name of the second-ranked firm. The executive director shall then undertake price negotiations with the second-ranked firm. Should the executive director be able to negotiate a satisfactory price, the second-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his justifications for the negotiated price.

4. Failing accord with the second-ranked firm, the executive director shall formally terminate negotiations. The selection committee shall provide the executive director the name of the third-ranked firm***, if any***. The executive director shall then undertake price negotiations with the third-ranked firm. Should the executive director be able to negotiate a satisfactory price, the third-ranked firm shall be awarded the contract. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the price. Should the executive director be unable to negotiate a satisfactory contract with the third-ranked firm, he shall formally terminate negotiations, and the procurement procedure shall start again from the beginning pursuant to KRS 45A.843.

(b) For bond counsel services:

1.[~~The top-ranked bond counsel firm shall be contacted to confirm its fee proposal in writing.~~

~~2.~~] The name of the top-ranked firm shall be provided to the executive director.[~~The executive director shall award the contract to the top ranked firm unless the firm's final fee proposal is higher than the one submitted in its response to the request for proposal. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection and the secretary shall order the hiring or not of the firm. The secretary shall state in writing his reasons for his actions.~~

~~3.~~] ***If the executive director does not agree with the selection recommended by the selection committee,***[~~However, if the firm's fee proposal is higher than the one submitted in its response to the request for proposals, then that firm shall not be further considered, and~~] the name of the second-ranked firm shall be submitted to the executive director.[~~The second-ranked firm shall be contacted to confirm its fee proposal in writing.~~]

2. The executive director shall submit the name of the first-ranked firm, or the second-ranked firm if the executive director did not agree with the first selection made by the selection committee, to the secretary of the Finance and Administration Cabinet. The executive director shall state in writing to the secretary of the Finance and Administration Cabinet his reasons for agreeing or not agreeing with the selection. The secretary shall order the hiring of the selected firm, or he shall order that the procurement procedure shall start again from the beginning pursuant to KRS 45A.843. The secretary shall state in writing the reasons for his actions.

Section 5. KRS 45A.860 is amended to read as follows:

(1) After a winning underwriter or bond counsel contract has been awarded by the secretary of the Finance and Administration Cabinet pursuant to KRS. 45A.853 and 45A.857, the executive director shall supply the name of the firm to each member of the selection committee. The executive director shall also send a letter to each firm which responded to the request for proposals, informing the firm of the name of the underwriter or bond counsel which has been awarded the contract.

(2) The secretary of the Finance and Administration Cabinet, executive director, head of the relevant bond issuing agency, and each voting member of the selection committee shall sign separate certificates, devised by the office, which shall certify that, to the best of his knowledge, he is either aware or unaware of circumstances which may constitute a willful violation of KRS 45A.840 to 45A.879 which has arisen in the procurement process.

(3) Any employee of the Auditor of Public Accounts, who was appointed to serve as a nonvoting member of the selection committee and who attended any committee proceeding, shall participate in the preparation of a report for filing with the Capital Projects and Bond Oversight Committee certifying that the applicable procedural provisions of KRS 45A.840 to 45A.879 were, or were not, met. Before filing the report, the employee or employees who participated in its preparation shall sign it.

(4) The Finance and Administration Cabinet shall retain the logs created pursuant to KRS 45A.853(7)(c)***4.***[~~6.~~] and the completed selection evaluation sheets required by KRS 45A.853(7)(c)***5.***[~~7.~~] The Finance and Administration Cabinet shall permit the public to inspect these documents. Each evaluation sheet and each log shall be signed by the person who completed it. The cabinet shall permit the public to inspect these documents and shall not black out the signature of the person who signed the evaluation sheet or the log.

HB 422, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14), (15), and (17) to (19) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county

who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the

County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months service or, if younger, who has sixty (60) months service may purchase credit in the Kentucky Employees Retirement System for up to ten (10) years service in a regular full-time position that was credited

to a state or local government administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) Any employee participating in the County Employees Retirement System, who has sixty (60) or more months of service, may purchase credit in the County Employees Retirement System for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) (a) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system.

(b) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), who has served or is currently serving in an office established pursuant to KRS 160.160, and who has at least fifteen (15) years of service, may obtain credit not to exceed two (2) years for the period of his service in the office established pursuant to KRS 160.160, if the service to be purchased does not overlap with service in a position covered by another state administered retirement system, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. The purchase of this service shall be made prior to December 31, 1996.

(c) Payment for purchase of service pursuant to paragraphs (a) and (b) of this subsection may be made in installments in lieu of lump-sum payment. The payment shall not be picked up, as described in KRS 61.560(4), and shall be deposited to the individual member's account.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a

city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) Any employee participating in one (1) of the state-administered retirement systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

The Committee Substitute to **HB 422** is as follows:

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4),

by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14), (15), and (17) to (19) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this

section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave; or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (16)(e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(c) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402 (c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months service or, if younger, who has sixty (60) months service may purchase credit in the Kentucky Employees Retirement System for up to ten (10) years service in a regular full-time position that was credited to a state or local government administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) Any employee participating in the County Employees Retirement System, who has sixty (60) or more months of service, may purchase credit in the County Employees Retirement System for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) (a) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system.

(b) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), who has served or is currently serving in an office established pursuant to KRS 160.160, and who has at least fifteen (15) years of service, may obtain credit not to exceed two (2) years for the period of his service in the office established pursuant to KRS 160.160, if the service to be purchased does not overlap with service in a position covered by another state administered retirement system, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. The purchase of this service shall be made prior to December 31, 1996.

(c) Payment for purchase of service pursuant to paragraphs (a) and (b) of this subsection may be made in installments in lieu of lump-sum payment. The payment shall not be picked up, as described in KRS 61.560(4), and shall be deposited to the individual member's account.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

HCR 9, A CONCURRENT RESOLUTION confirming the appointment of Linda Waggener to the Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six (6) at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, on October 16, 1996, the Governor reappointed Linda Waggener to the Board, and the Governor's office has submitted her appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Ms. Waggener meets the age and residency requirements of KRS 7B.030, and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do hereby confirm the appointment of Linda Waggener to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2000.

Section 2. That the Clerk of the House of Representatives shall send a copy of this resolution, and notification of its adoption, to Linda Waggener, 122 E. Fortune St., Columbia, Kentucky 42728 and to Governor Paul E. Patton, The Capitol, 700 Capitol Avenue, Frankfort, Kentucky 40601.

HCR 10, A CONCURRENT RESOLUTION confirming the appointment of Dr. Penny M. Miller to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six (6) at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, On October 16, 1996, the Governor reappointed Dr. Penny M. Miller to the Board, and, the Governor's office has submitted her appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Dr. Miller meets the age and residency requirements of KRS 7B.030, and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate do hereby confirm the appointment of Dr. Penny M. Miller to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2000.

Section 2. That the Clerk of the House of Representatives shall send a copy of this resolution, and notification of its adoption, to Dr. Penny M. Miller, 1001 Maple Ridge, Lexington, Kentucky 40509 and to Governor Paul E. Patton, The Capitol, 700 Capitol Avenue, Frankfort, Kentucky 40601.

HCR 32, A CONCURRENT RESOLUTION confirming the appointment of Daniel Hall to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Governor to appoint six (6) at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on September 11, 1997, the Governor appointed Daniel Hall to the Board, and the Governor's office has submitted his appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Daniel Hall meets the age and residency requirements of KRS 7B.030, and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate hereby confirm the appointment of Daniel Hall to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 1999.

Section 2. That the Clerk of the House of Representatives shall send a copy of this resolution, and notification of its adoption, to Mr. Daniel Hall, 2200 Wynnewood Circle, Louisville, Kentucky 40222 and to Governor Paul Patton, The Capitol, 700 Capitol Avenue, Frankfort, Kentucky 40601.

HCR 45, A CONCURRENT RESOLUTION confirming the appointment of Evelyn Boone to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Legislative Research Commission to appoint five (5) at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on October 1, 1997, the Legislative Research Commission appointed Evelyn Boone to the Board, and the Legislative Research Commission has submitted her appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Evelyn Boone meets the age and residency requirements of KRS 7B.030, and has demonstrated an interest in the well-being and development of the Commonwealth, as required by KRS 7B.030;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate hereby confirm the appointment of Evelyn Boone to the Kentucky Long-Term Policy Research Center Board for a term expiring July 13, 2000.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Concurrent Resolution, and notification of its adoption, to the Legislative Research Commission, Capitol, 700 Capitol Avenue, Frankfort, Kentucky 40601, and to Mrs. Evelyn Boone, P.O. Box 308, Elkton, Kentucky 42220.

HCR 46, A CONCURRENT RESOLUTION confirming the appointment of June Lyne to the Kentucky Long-Term Policy Research Center Board.

WHEREAS, KRS 7B.030 requires the Legislative Research Commission to appoint five (5) at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on November 6, 1996, the Legislative Research Commission appointed June Lyne to the Board, and the Legislative Research Commission has submitted her appointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that June Lyne meets the age and residency requirements of KRS 7B.030, and has demonstrated an interest in the well-being and development of the Commonwealth, as required by KRS 7B.030;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives and the Senate hereby confirm the appointment of June Lyne to the Kentucky Long-Term Policy Research Center Board for a term expiring July 13, 1998.

Section 2. That the Clerk of the House of Representatives shall send a copy of this Concurrent Resolution, and notification of its adoption, to the Legislative Research Commission, Capitol, 700 Capitol Avenue, Frankfort, Kentucky 40601, and to Ms. June Lyne, 10904 Clarksville Road, Olmstead, Kentucky 42265.

SB 1, AN ACT relating to planning and zoning in counties containing a city of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

It is the intent of Sections 1 to 10 of this Act to strengthen the enforcement of binding elements which have been approved as part of a land use development plan in a county containing a city of the first class. This is intended to be done by extending to a planning commission in counties containing a city of the first class the authority to issue remedial orders and impose civil fines in order to provide an equitable, expeditious, effective, and inexpensive method of ensuring compliance with approved land use plans as they apply to binding element agreements. Sections 1 to 10 of this Act is intended and shall be construed to provide an additional or supplemental means of obtaining compliance with local zoning ordinances and nothing contained in Sections 1 to 10 of this Act shall prohibit the enforcement of local zoning ordinances by any other means authorized by law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act, unless the context otherwise requires:

(1) "Land use enforcement officer" in a county containing a city of the first class means a zoning enforcement officer employed by a planning commission.

(2) "Land use ordinance" in a county containing a city of the first class means an official action of a local government body which is a regulation of a general and permanent nature relating to the use and development of land within the jurisdictional boundary of the planning commission. It is enforceable as a local law and shall include any provision of a code of ordinances adopted by a local government which embodies all or part of an ordinance.

(3) "Local government" means a county containing a city of the first class and all cities of the first through fourth classes within that county.

(4) "Binding element" in a county containing a city of the first class means a binding requirement, provision, restriction, or condition imposed by a planning commission or its designee, or a promise or agreement made by an applicant in writing in connection with the approval of a land use development plan or subdivision plan.

SECTION 3. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) The planning commission in counties containing a city of the first class may issue remedial orders and impose civil

fines as a method of enforcing a binding element when a violation of that binding element has been classified as a civil offense in accordance with this section.

(2) Subject to the limitations set forth in subsections (1) and (3) of this section, if a local government elects to enforce a binding element as a civil offense, it shall do so by ordinance, which shall provide:

(a) That a violation of the binding element is a civil offense; and

(b) A maximum civil fine that may be imposed for each violation of a binding element.

(3) No local government shall classify the violation of a binding element` as a civil offense if the violation would also constitute an offense under any provision of the KRS, including specifically, and without limitation, any provision of the Kentucky Penal Code and any moving motor vehicle offense.

SECTION 4. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Each planning commission which is given the authority by the local government to enforce binding elements shall have the power to:

(1) Adopt rules and regulations to govern its operation and the conduct of its hearings that are consistent with the requirements of Sections 1 to 10 of this Act.

(2) Conduct hearings to determine whether there has been a violation of a binding element.

(3) Subpoena alleged violators, witnesses, and evidence to its hearings. Subpoenas issued by the planning commission may be served by any land use enforcement officer.

(4) Take testimony under oath. The chairman of the planning commission may administer oaths to witnesses prior to their testimony before the planning commission on any matter.

(5) Make findings and issue orders that are necessary to remedy any violation of a binding element.

(6) Impose civil fines as authorized in the ordinance on any person found to have violated any binding element that the planning commission is authorized to enforce.

SECTION 5. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) When a land use enforcement officer, based upon personal observation or investigation, has reasonable cause to believe that a violation of a binding element has occurred, the officer may issue a warning notice and citation to the offender. Prior to issuing a citation, the officer shall issue a warning notice giving the offender a specified period of time in which to remedy the violation. If the person to whom the notice is given fails or refuses to remedy the violation within the time specified, the land use enforcement officer may issue a citation. However, if the violation is deemed by the land use enforcement officer to be a threat to public safety, then a citation shall be immediately issued without a prior warning notice.

(2) Enforcement proceedings shall be initiated by the issuance of a citation by a land use enforcement officer.

(3) The citation issued by the land use enforcement officer shall be in a form prescribed by the planning commission and shall contain, in addition to any other information required by the planning commission:

(a) The date and time of issuance;

(b) The name and address of the person to whom the citation is issued;

(c) The date and time the violation of the binding element was committed;

(d) The facts constituting the violation of the binding element;

(e) A specific description of the binding element violated;

(f) The name of the land use enforcement officer;

(g) The civil fine that will be imposed for the violation if the person does not contest the citation;

(h) The procedure for the person to follow in order to pay the civil fine or to contest the citation; and

(i) A statement that if the person fails to pay the civil fine set forth in the citation or to contest the citation within the time allowed, the person shall be deemed to have waived the right to a hearing before the planning commission to contest the citation, and that the determination that a violation was committed shall be final.

(4) After issuing a citation to an alleged violator, the land use enforcement officer shall notify the planning commission by delivering the citation to the administrative official designated by the planning commission.

(5) All citations issued shall be hand delivered to the alleged violator.

(6) When a citation is issued, the person to whom the citation is issued shall respond to the citation within fourteen (14) days of the date the citation is issued by either paying the civil fine set forth in the citation or requesting, in writing, a hearing before the planning commission to contest the citation. If the person fails to respond to the citation within fourteen (14) days, the person shall be deemed to have waived the right to a hearing to contest the citation and the

determination that a violation was committed shall be considered final. In this event, the planning commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) When a hearing before a planning commission has been requested, the planning commission, through its clerical and administrative staff, shall schedule a hearing. The hearing shall be conducted within thirty (30) days of the date of the request, unless the person who requested the hearing requests or agrees to a continuance not to exceed thirty (30) days. All continuances must receive the approval of the planning commission. Not less than seven (7) days before the date set for the hearing, the planning commission shall notify the person who requested the hearing of the date, time, and place of the hearing. The notice may be given by certified mail, return receipt requested; by personal delivery; or by leaving the notice at the person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the notice. Any person requesting a hearing before the planning commission who fails to appear at the time and place set for the hearing shall be deemed to have waived the right to a hearing to contest the citation and the determination that a violation was committed shall be final. In this event, the planning commission shall enter a final order determining that the violation was committed and imposing the civil fine set forth in the citation.

(2) Each case before a planning commission shall be presented by an attorney who shall be counsel to the commission.

(3) All testimony shall be under oath and shall be recorded. The planning commission shall take testimony from the land use enforcement officer, the alleged offender, and any witnesses to the alleged violation offered by the land use enforcement officer or the alleged offender. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(4) After the hearing, the planning commission shall determine, based on the evidence presented, whether a violation was committed. When the commission determines that no violation was committed, an order dismissing the citation shall be entered. When the commission determines that a violation has been committed, the commission shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to the maximum authorized by the ordinance, or may order the offender to remedy a continuing violation within a specified time to avoid the imposition of a fine, or both, as authorized by the ordinance.

(5) Every final order of a planning commission shall be reduced to writing, which shall include the date the order was issued, and a copy of the order shall be furnished to the person named in the citation. If the person named in the citation is not present at the time a final order of the planning commission is issued, the order shall be delivered to that person by certified mail, return receipt requested; by personal delivery; or by leaving a copy of the order at that person's usual place of residence with any individual residing therein who is eighteen (18) years of age or older and who is informed of the contents of the order.

SECTION 7. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

(1) An appeal from any final order issued by a planning commission may be made to the District Court of the county in which the planning commission is located. The appeal shall be taken within thirty (30) days of the date the order is issued. The appeal shall be initiated by the filing of a complaint and a copy of the commission's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the planning commission to establish that a violation has occurred. If the court finds that a violation occurred, judgment shall be entered ordering the offender to pay to the planning commission all fines assessed for the violation. If the court finds a violation did not occur, the complaint shall be dismissed.

(2) A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

(3) If no appeal from a final order of a planning commission is filed within the time period set forth in this section, the planning commission's order shall be deemed final for all purposes.

SECTION 8. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

The person or entity found to have committed a violation of a binding element shall be responsible for the amount of all fines assessed for the violation. A planning commission may bring a civil action against the person or entity and shall have the same remedies as provided for the recovery of a debt.

SECTION 9. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Nothing contained in Sections 1 to 10 of this Act shall prohibit a local government from taking immediate action to remedy a violation of a binding element when there is reason to believe that the existence of the binding element violation presents a serious threat to the public health, safety, and welfare, or if in the absence of immediate action, the effects of the binding element violation will be irreparable or irreversible.

SECTION 10. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 10 of this Act may be cited as the "Binding Element Enforcement Act."

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 226**, by Representative Coleman:

On page 2, line 4 after the word "after" by placing brackets before "July" and by placing brackets after "1992" and by striking through "July 14, 1992" and by inserting in lieu thereof "***the effective date of this Act***";

On page 7, after line 19 and before line 20 by inserting "***(17) No licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.***

"***(18) Each licensee shall conspicuously display in every deferred deposit business location a sign that gives the following notice; "No person who enters into a post-dated check or deferred deposit check transaction with this business establishment will be prosecuted or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040.***"; and

On page 10, after line 22 by adding "Section 15. Whereas it is increasing difficult to prevent the working people of the Commonwealth from being charged outrageous fees when they enter into deferred deposit transactions which has lead many to economic ruin, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Motions, Petitions and Communications (Continued)

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 57**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in reverent memory of Jim Voss loving husband of Polly Lou Voss, devoted father of Vicki Vowels, Chuck Voss and David Voss, adored brother of Janice Callaway and Jack Voss, and cherished grandfather of five and great-grandfather of one. A Union County magistrate and former president of the Union County Fair Board, this esteemed citizen possessed a rare and tremendous sense of family and community and will be sorely missed by both. Jim Voss lent unwavering support to the citizens of his community through his efforts as a member of the First Presbyterian Church and as both a local farmer and bus driver for the Union County School System. The members of the House of Representatives of the Commonwealth of Kentucky join this day with Representative John Arnold, Jr. in expressing deepest sentiments of sympathy to all those who share in the loss of this distinguished Kentucky citizen. **Legislative Citation No. 57** was adopted without objection.

Representative Wilkey moved the adoption of the following **Legislative Citation No. 58**. Agreed.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in loving memory of Courtney Stinson and express deepest sympathy to all who share in the loss through the tragic and untimely passing of this precious four-year-old child, beloved daughter of James Glen and Michelle Stinson-Musgrave, cherished sister of Dylan James Musgrave and treasured grandchild of Bobby and Patricia Stinson and Sharon Musgrave. The members of the Kentucky House of Representatives join with Representative Rob Wilkey in remembering her today, grateful for her tender presence, lamenting the brevity of her journey on this earth and expressing sincere and heartfelt condolences to those who held her dear to their hearts. **Legislative Citation No. 58** was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 56**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby pays tribute to President Ronald Reagan on the occasion of his 87th birthday. Furthermore, recognition is extended to those Americans whose diligent efforts to secure support for proposed legislation to change the name of Washington National Airport to Ronald Reagan National Airport have the support of so many of this nation's finest citizens. The members of this prestigious body welcome the opportunity to join Representative Danny Ford in extending birthday greetings to President Ronald Reagan, who continues to serve as an example of courage, forthrightness and dignity. **Legislative Citation No. 56** was adopted without objection.

Representative Crenshaw moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION recognizing the month of February as Black History Month.

WHEREAS, during the month of February, across the United States of America and across this great Commonwealth, observances are held to increase public awareness of the importance of Black history and the contributions that African-Americans have made toward their country; and

WHEREAS, not only during the month of February, but throughout the remainder of the year, it is important that we reach out to one another in seeking and understanding our fellow man in a peaceful and loving way; and

WHEREAS, the citizens of this great Commonwealth should recommit themselves to an ideal America where equality and justice will always prevail and to the concepts of love, wisdom, and compassion toward one another; and

WHEREAS, the respect that fellow citizens have for one another determines the value of any country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of the General Assembly of the Commonwealth of Kentucky recognizes the month of February as Black History Month, and urges that the citizens of this great Commonwealth be mindful of the contributions of African-Americans and of all its citizens throughout the year.

Section 2. The Clerk of the House of Representatives is hereby directed to provide copies of this resolution to any individual upon request.

There being no objection **HR 62** was adopted.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 282**, by Representative Lee:

On page 11, line 17, after "***Have***" by inserting "***, after April 1, 1999,***";

On page 12, line 18, by deleting "***Reimbursement shall not include***" and by capitalizing the first "***a***" in "***additional***";

on line 19, after "***KRS 224.60-105(4)***" by inserting "***shall be neither reimbursable by the fund nor imposed on the owner or operator***".

Floor Amendment No. 4 to the Committee Substitute to **HB 263**, by Representative Maricle:

On page 14, line 8, after the word "registered.", by adding the following: "***Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence any type of charitable gaming that it is not conducting in the adjoining county.***".

Motions, Petitions and Communications (Continued)

Representative Walton moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Walton moved that he be recorded as voting "nay" on **HB 382** and **HB 259**. Agreed. Representative Walton moved that he be recorded as voting "yea" on **HB 212, HB 388,** and **HB 389**. Agreed.

Representative Lee moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Lee moved that he be recorded as voting "yea" on **HB 37**. Agreed.

Representative Cave moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Cave moved that he be recorded as voting "yea" on **HB 284**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Vincent moved that he be recorded as voting "nay" on **HB 197**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Crenshaw moved that his vote be changed from "nay" to "yea" on **HB 197**. Agreed.

Representative Yonts moved that **HB 94** be withdrawn. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 50**, Representative Rader; **HB 52, HB 148**, Representative Riggs; **HB 85, HB 457**, Representative Vincent; **HB 163**, Representative Cox; **HB 175, HB 335, HB 382, HB 489**, Representative Hoffman; **HB 175, HB 448, HB 449**, Representative Colter; **HB 225, HB 489**, Representative McKee; **HB 380**, Representative Cave; **HB 434**, Representative Scott; **HCR 59**, Representatives Bruce, Bratcher.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Resources, Room 129, upon adjournment, February 4, 1998.

Elections and Constitutional Amendments, 10:00 a.m., February 4, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 4, 1998.

On the roll call the vote was **Yeas 79**--J. Adams, R. Adams, Adkins, Alexander, Anderson, A. Arnold, Ballard, Baugh, Bowling, Bratcher, Brown, Bruce, D. D. Butler, Callahan, Cave, L. Clark, P. Clark, J. Clarke, Coleman, Collins, Colter, Cox, Crenshaw, Crimm, Damron, DeWeese, Ford, Gee, Geveden, Gooch, D. Graham, G. Graham, Gray, Hatcher, Haydon, Hoffman, Hogancamp, Horlander, Jenkins, Johns, Jordan, Kerr, Lee, Lindsay, Lovell, Marzian, Mason, McKee, Miller, Moberly, Murgatroyd, Napier, Newsome, Palumbo, Polston, Pope, Rader, Rasche, Richards, Riggs, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Turner, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts, Zimmerman. **Nays 5**--Allen, Crall, Hoover, Nunn, Stewart.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 4, 1998

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Representative Tom Kerr.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Anderson, Bowling, Bratcher, D. D. Butler, Clarke, Collins, Crenshaw, Deskins, DeWeese, Heleringer, Hogancamp, Jordan, Miniard, Moberly, Napier, Palumbo, Pope, Turner, and Wayne.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 3, 1998, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 254**, by Representative Collins:

On page 1, line 6, after the period by adding the following new language: ***"This section shall apply only to cities of the first and second class."***

Floor Amendment No. 1 to the Committee Substitute to **HB 254**, by Representative Collins:

On page 1, line 6, after the period by adding the following new language: ***"This section shall apply only to counties with a population exceeding forty thousand (40,000)."***

Introduction of Bills

HB 497, by Representatives Ballard, Bruce, and Gee: AN ACT relating to operator's license.

HB 498, by Representatives Pope, Deskins, Alexander, Adkins, Yonts, Bowling, Mason, Collins, and Stumbo: AN ACT relating to forfeited mining reclamation bonds.

HB 499, by Representatives Yonts, Gooch, Stein, Gray, and Siler: AN ACT relating to community college boards of directors.

HB 500, by Representatives Yonts, Gooch, Gray, and Stein: AN ACT relating to school accountability.

HB 501, by Representatives Hoffman, Jenkins, and Jordan: AN ACT relating to fire protection and emergency medical services.

HB 502, by Representative Hatcher: AN ACT relating to licensing of colleges.

Senate Message

Announcing passage of **SB 105, SB 141, SB 149, SB 150, SB 152, SB 153, SB 167, SB 173, SB 174, SB 175, SB 187,** and **HB 176**. Message received on **HB 67**: The Senate has passed **HB 67** with Senate Amendment and respectfully requests concurrence of this Honorable Body. (Time: 2:10 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Agriculture and Small Business: **HB 480, HB 483, HJR 63**

Banking and Insurance: **HB 491, HB 493, HB 496**

Economic Development: **HB 481**

Education: **HB 482, HB 484, HB 485, HB 494**

Health and Welfare: **HB 479**

Judiciary: **HB 489, HB 490**

Labor and Industry: **HB 487**

Natural Resources and Environment: **HB 488**

State Government: **HB 486, HB 492, SB 156, SB 158**

Transportation: **HB 495**

Report of Committees

The Committee on Education reported **HB 92, HB 193,** and **HB 378,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 92, AN ACT relating to student attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, divided by the actual number of days the school is in session***. Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year***;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the chief state school officer. The chief state school officer shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a

single school year***;***[~~.~~]

(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;

(12) "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(15) "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year***; and***[~~.~~]

(16) "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board.

HB 193, AN ACT relating to truancy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.150 is amended to read as follows:

(1) Any child who has been absent from school without valid excuse for three (3) or more days, or tardy on three (3) or more days, is a truant. Any child who has been reported as a truant three (3) or more times is an habitual truant. Being absent for less than half of a school day shall be regarded as being tardy.

(2) Upon the approval of the board of education, the director of pupil personnel may enter into an agreement with law enforcement officials to investigate cases of nonattendance and take into custody any child of compulsory school age or one suspected of being of that age who is not on school property during school hours. The agreement shall authorize law enforcement officials to transport the child to a facility operated by the board of education and supervised by sufficient qualified staff to provide services consistent with the needs of the child. The facility shall be located within reasonable proximity to the child's residential community. The duration of custody and placement in the facility shall comply with the time limits under KRS 600.020(52).

(3) The agreement shall establish procedures for:

(a) Notifying the parent or guardian, or other person exercising custodial control or supervision of the child, and appropriate school officials;

(b) Verifying the status of the child;

(c) Release of the child to a parent or guardian, or other person exercising custodial control or supervision of the child;

(d) Providing counseling and advice on school attendance; and

(e) Approving a placement facility by the board of education, the law enforcement agency, and the juvenile session of the district court of the county.

Section 2. KRS 610.255 is amended to read as follows:

The peace officer may divert the child from the formal court process and take the child to a court-approved center offering voluntary services to children and release the child without formal charges being filed, if:

(1) The offense the child has allegedly committed under the provisions of KRS 610.010(1)(a) is not a felony offense;

(2) The peace officer has received the permission of the parent***, school personnel,*** or other responsible adult***;*** and

(3) The peace officer has followed guidelines ***that***[~~which~~] the court has established for ***the***[~~such~~] release.

Section 3. KRS 630.030 is amended to read as follows:

Under the provisions of this chapter a child may be taken into custody by any peace officer:

(1) Pursuant to an order of the court for failure to appear before the court for a previous status offense;[~~ or~~]

(2) If there are reasonable grounds to believe that the child has been an habitual runaway from his ***or her*** parent or person exercising custodial control or supervision of the child; ***or***

(3) If there are reasonable grounds to believe that the child has not subjected himself or herself to the reasonable control of school personnel or the child is a truant under Section 1 of this Act and KRS 600.020.

HB 378, AN ACT relating to budget statements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.463 is amended to read as follows:

The school board of each public school system in any county having 300,000 or more inhabitants shall direct its superintendent to publish, in full, annually, in the newspaper of the largest general circulation in the county, the annual financial statements of the school system audited by certified public accountants or an accountant approved by the State Department of Education. Each system's financial statements shall be prepared and presented on a basis consistent with that of the other systems. ***The superintendent of the district may choose to satisfy the requirement in this section by publishing the statement of revenue and expenditures from the official audit, together with the summary statement that the audit report is available for inspection at the offices of the local school district during normal working hours of the school district. The local district, at its expense, shall mail a copy of the audit to any individual who requests it in writing. The district is encouraged to post the summary on its World Wide Web homepage, if it maintains one.***

Section 2. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended.

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including, but not limited to, road department, jails, solid waste, public safety, and administrative personnel.

(4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including, but not limited to, administrative, maintenance, transportation and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement pursuant to KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department of Local Government.

(7) In lieu of the publication requirements of subsection (6) of this section, ***the superintendent of a local school district and*** the appropriate officer of any municipally-owned electric, gas, or water system may elect to satisfy the requirements of

subsection (6) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district as the case may be, the statement of revenue and expenditures from ***the certified***[~~such~~] audit, together with the ***summary*** statement that the audit report is available for inspection at the offices of the ***local school district or the*** utility***. The school district, at its expense, shall mail a copy of the statement of revenue and expenditure from the certified audit to any individual who requests it in writing. The district is encouraged to post the summary on its World Wide Web homepage, if it maintains one***; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (6) of this section by publishing an audit, prepared pursuant to KRS 43.070 or 64.810, in the same manner that city audits are published pursuant to KRS 91A.040(7).

Section 3. KRS 424.250 is amended to read as follows:

At the same time that copies of the budget of a school district are filed with the clerk of the tax levying authority for the district, as provided in KRS 160.470, the board of education of the district shall cause the budget to be advertised for the district by publishing a copy of the budget in a newspaper. ***The local district, at its expense, shall mail a copy of the budget to any individual who requests it in writing. Each district is encouraged to post the budget on its World Wide Web homepage, if it maintains one.***

The Committee Substitute to **HB 378** is as follows:

AN ACT relating to budget statements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.463 is amended to read as follows:

The school board of each public school system in any county having 300,000 or more inhabitants shall direct its superintendent to publish, in full, annually, in the newspaper of the largest general circulation in the county, the annual financial statements of the school system audited by certified public accountants or an accountant approved by the State Department of Education. Each system's financial statements shall be prepared and presented on a basis consistent with that of the other systems. ***The school district may choose to satisfy the requirement in this section by publishing the statement of revenue and expenditures from the official audit, together with the summary statement that the audit report is available for inspection at the offices of the local school district during normal working hours of the school district. The local district, at its expense, shall mail a copy of the audit to any individual who requests it in writing. The district is encouraged to post the summary on its World Wide Web homepage, if it maintains one.***

Section 2. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, county, or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended.

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including, but not limited to, road department, jails, solid waste, public safety, and administrative personnel.

(4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be

shown as lump-sum expenditures by category, including, but not limited to, administrative, maintenance, transportation and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement pursuant to KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county***,*** or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department of Local Government.

(7) In lieu of the publication requirements of subsection (6) of this section, ***the school district and*** the appropriate officer of any municipally-owned electric, gas, or water system may elect to satisfy the requirements of subsection (6) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county***,*** or district as the case may be, the statement of revenue and expenditures from ***the certified***[~~such~~] audit, together with the ***summary*** statement that the audit report is available for inspection at the offices of the ***local school district or the*** utility***. The school district, at its expense, shall mail a copy of the statement of revenue and expenditure from the certified audit to any individual who requests it in writing. The district is encouraged to post the summary on its World Wide Web homepage, if it maintains one***; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (6) of this section by publishing an audit, prepared pursuant to KRS 43.070 or 64.810, in the same manner that city audits are published pursuant to KRS 91A.040(7).

Section 3. KRS 424.250 is amended to read as follows:

At the same time that copies of the budget of a school district are filed with the clerk of the tax levying authority for the district, as provided in KRS 160.470, the board of education of the district shall cause the budget to be advertised for the district by publishing a copy of the budget in a newspaper. ***The local district, at its expense, shall mail a copy of the budget to any individual who requests it in writing. Each district is encouraged to post the budget on its World Wide Web homepage, if it maintains one.***

The Committee on Elections and Constitutional Amendments reported **HB 246,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 246, AN ACT proposing an amendment to Section 36 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet ***each year*** on the first Tuesday after the first Monday in January***. In even-numbered years the General Assembly shall convene in regular session, and*** in odd-numbered years ***the General Assembly shall convene in interim session. The interim session shall convene*** for a period not to exceed ***twenty-five***[~~ten~~] legislative days for the ***initial*** purposes of electing legislative leaders, adopting rules of procedure***,*** and the organizing of committees***, and no other subject shall be considered until these have been concluded, except that proclamations setting subjects to be considered may be received and read. Following the organization of the legislature in interim session, the General Assembly may consider the budget, confirmation of appointments, and administrative regulations as though in regular session. In interim session the General Assembly may also consider no more than three subjects designated on the first day of the interim session by proclamation of the Governor, two subjects designated while in session by proclamation of the President of the Senate, and two subjects designated while in session by proclamation of the Speaker of the House, and no other shall be considered***. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session, and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 246** is as follows:

AN ACT proposing an amendment to Section 36 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet ***each year*** on the first Tuesday after the first Monday in January***. In even-numbered years, the General Assembly shall convene in regular session.*** In odd-numbered years***, the General Assembly shall convene in organizational session*** for a period not to exceed ***five***[~~ten~~] legislative days for the purposes of electing legislative leaders, adopting rules of procedure***,*** and the organizing of committees***. The General Assembly shall then adjourn the organizational session until the first Tuesday in February, at which time it shall convene in interim session for a period not to exceed twenty-five legislative days for consideration of the budget, confirmation of appointments, and review of administrative regulations as though in regular session. While in interim session, the General Assembly may also consider no more than three subjects designated by proclamation of the Governor, two subjects designated by proclamation of the President of the Senate, two subjects designated by proclamation of the Speaker of the House, one subject designated by proclamation of the Minority Floor Leader of the House, and one subject designated by proclamation of the Minority Floor Leader of the Senate, and no other subject shall be considered***. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session, and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee on Tourism Development and Energy reported **HB 106, HB 341, HB 345, HB 397,** with Committee Substitute attached thereto, **HB 399**, with Committee Substitute attached thereto, and **HB 405**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 106, AN ACT relating to the operation of motorcycles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.285 is amended to read as follows:

(1) ***A***[~~No~~] person shall ***not*** operate a motorcycle on a highway:

  (a) Except when that person is in possession of a valid motorcycle operator's license; and

  (b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the Transportation Cabinet, at all times such vehicle is in motion; and

  (c) Unless the motorcycle is equipped with a rear-view mirror.

(2) ***A***[~~No~~] person shall ***not*** operate or ride as a passenger on a motorcycle:

  (a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

  (b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner[~~; and~~

  ~~(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion~~].

(3) ***The following persons shall be required to wear protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times the motorcycles they are riding are in motion on a public highway:***

  (a) A person under the age of twenty-one (21) years who is operating a motorcycle or who is a passenger on a motorcycle or in a sidecar attachment;

  (b) A person who possesses a motorcycle instruction permit and who is operating a motorcycle; and

  (c) A person who has held a valid motorcycle operator's license, or combination motor vehicle-motorcycle

operator's license, for less than one (1) year and who is operating a motorcycle.

(4) A motorcycle operator authorized to drive a motorcycle on an instruction permit shall not be authorized to carry passengers.

(5) The secretary of the Transportation Cabinet shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. The secretary shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. The secretary may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(6)[~~(4)~~] As used in this chapter and KRS Chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three *(3)* wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab and excluding a moped as defined in this section.

(7)[~~(5)~~] "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

HB 341, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Human Resources, the Finance and Administration Cabinet, the Revenue Cabinet, the Tourism ***Development*** Cabinet, the Labor Cabinet, the commissioner of the Department of Personnel, the secretary of the Governor's Executive Cabinet, the State Budget Director, the Governor's Chief of Staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.

5. Department of the Treasury.
    - (a) Treasurer.
6. Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
    - (a) Department of State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Offices of the Deputy Secretaries.
    - (g) Office of General Counsel.
    - (h) Medical Examiner Program.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
    - (a) Department of Education.
        - (1) Kentucky Board of Education.
        - (2) Education Professional Standards Board.
    - (b) Department for Libraries and Archives.
    - (c) Kentucky Arts Council.
    - (d) Kentucky Educational Television.
    - (e) Kentucky Historical Society.
    - (f) Kentucky Teachers' Retirement System Board of Trustees.
    - (g) Kentucky Center for the Arts.
    - (h) Kentucky Craft Marketing Program.
    - (i) Kentucky Commission on the Deaf and Hard of Hearing.
    - (j) Governor's Scholars Program.
    - (k) Governor's School for the Arts.
    - (l) Office of Development.
    - (m) Kentucky Heritage Council.
    - (n) Kentucky African-American Heritage Commission.
3. Natural Resources and Environmental Protection Cabinet:
    - (a) Environmental Quality Commission.
    - (b) Kentucky Nature Preserves Commission.
    - (c) Department for Environmental Protection.
    - (d) Department for Natural Resources.
    - (e) Department for Surface Mining Reclamation and Enforcement.
    - (f) Office of Legal Services.
    - (g) Office of Communications and Community Affairs.
4. Transportation Cabinet:

- (a) Department of Highways.
- (b) Department of Vehicle Regulation.
- (c) Department of Administrative Services.
- (d) Department of Fiscal Management.
- (e) Department of Rural and Municipal Aid.
- (f) Office of Aeronautics.
- (g) Office of General Counsel.
- (h) Office of Public Relations.
- (i) Office of Personnel Management.
- (j) Office of Minority Affairs.
- (k) Office of Environmental Affairs.

5. Cabinet for Economic Development:
    - (a) Department of Administration and Support.
    - (b) Department of Job Development.
    - (c) Department of Financial Incentives.
    - (d) Department of Community Development.
    - (e) Tobacco Research Board.
    - (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    - (a) Public Service Commission.
    - (b) Department of Insurance.
    - (c) Department of Housing, Buildings and Construction.
    - (d) Department of Financial Institutions.
    - (e) Department of Mines and Minerals.
    - (f) Department of Public Advocacy.
    - (g) Department of Alcoholic Beverage Control.
    - (h) Kentucky Racing Commission.
    - (i) Board of Claims.
    - (j) Crime Victims Compensation Board.
    - (k) Kentucky Board of Tax Appeals.
    - (l) Backside Improvement Commission.
7. Cabinet for Human Resources:
    - (a) Department for Health Services.
    - (b) Department for Social Insurance.
    - (c) Department for Social Services.
    - (d) Department for Medicaid Services.
    - (e) Department for Mental Health and Mental Retardation Services.
    - (f) Commission for Children with Special Health Care Needs.
    - (g) Public Assistance Appeals Board.
    - (h) Office of Administrative Services.
    - (i) Office of Communications.
    - (j) Office of General Counsel.
    - (k) Office of Inspector General.
    - (l) Office of Policy and Budget.
    - (m) Office of the Ombudsman.
8. Finance and Administration Cabinet:
    - (a) Office of Legal and Legislative Services.

   (b) Office of Management and Budget.
   (c) Office of Financial Management and Economic Analysis.
   (d) Office of the Controller.
   (e) Department for Administration.
   (f) Department of Facilities Management.
   (g) Department of Information Systems.
   (h) State Property and Buildings Commission.
   (i) Kentucky Pollution Abatement Authority.
   (j) Kentucky Savings Bond Authority.
   (k) Deferred Compensation Systems.
   (l) Office of Equal Employment Opportunity Contract Compliance.
   (m) Capital Plaza Authority.
   (n) County Officials Compensation Board.
   (o) Kentucky Employees Retirement Systems.
   (p) Commonwealth Credit Union.
   (q) State Investment Commission.
   (r) Kentucky Housing Corporation.
   (s) Governmental Services Center.
   (t) Kentucky Local Correctional Facilities Construction Authority.
   (u) Kentucky Turnpike Authority.
   (v) Historic Properties Advisory Commission.

9. Labor Cabinet:
   (a) Department of Workplace Standards.
   (b) Department of Workers' Claims.
   (c) Kentucky Labor-Management Advisory Council.
   (d) Occupational Safety and Health Standards Board.
   (e) Prevailing Wage Review Board.
   (f) Workers' Compensation Board.
   (g) Kentucky Employees Insurance Association.
   (h) Apprenticeship and Training Council.
   (i) State Labor Relations Board.
   (j) Kentucky Occupational Safety and Health Review Commission.
   (k) Office of Administrative Services.
   (l) Office of Labor Management Relations.
   (m) Office of General Counsel.
   (n) Workers' Compensation Funding Commission.
   (o) Employers Mutual Insurance Authority.

10. Revenue Cabinet:
   (a) Department of Property Taxation.
   (b) Department of Compliance and Taxpayer Assistance.
   (c) Department of Administrative Services.
   (d) Office of General Counsel.

11. Tourism ***Development*** Cabinet:
   (a) Department of Travel[~~ Development~~].
   (b) Department of Parks.
   (c) Department of Fish and Wildlife Resources.
   (d) Kentucky Horse Park Commission.

(e) State Fair Board.
(f) Office of Administrative Services.
(g)[~~Office of Film Promotion.~~
~~(h)~~] Office of General Counsel.

12. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.
(k) Office of General Counsel.
(l) Office of Communication Services.
(m) Office of Development and Industry Relations.
(n) Office of Workforce Analysis and Research.
(o) Office for Administrative Services.
(p) Office for Policy, Budget, and Personnel.
(q) Unemployment Insurance Commission.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Department of Personnel.
3. Council on Postsecondary Education.
(a) Kentucky Community Service Commission.
4. Department of Local Government.
5. Kentucky Commission on Human Rights.
6. Kentucky Commission on Women.
7. Department of Veterans' Affairs.
8. Kentucky Commission on Military Affairs.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:
(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Human Resources.
(8) Finance and Administration Cabinet.
(9) Tourism ***Development*** Cabinet.
(10) Revenue Cabinet.
(11) Labor Cabinet.
(12) Cabinet for Workforce Development.

Section 4. KRS 61.958 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council, hereinafter called the "council," to the Kentucky Information Resources Management Commission to advise the Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Resources Management Commission on issues as they relate to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-five (25) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Human Resources or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The commissioner of the Department of Information Systems or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department of Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism ***Development*** Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 5. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010 may be permitted a credit against the Kentucky sales tax imposed by KRS 139.200 on the sales by the approved company generated by or arising from the tourism attraction project as defined in KRS 154.29-010. The approved company shall have no obligation to refund or otherwise return any amount of this credit to the persons from whom the sales tax was collected. The term of the agreement granting this credit shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement. However, in no event shall credits accrue prior to July 1, 1997.

(2) The total sales tax credit allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability or twenty-five percent (25%) of the approved costs. The credit shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost and shall be allowed for each fiscal year of the approved company during the term of the agreement for which a sales tax return of the approved company is filed. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, an approved company may carry forward an unused accrued credit from a previous year to any succeeding tax period during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through credits. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the Tourism ***Development*** Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 154.29-010 to 154.29-060 and the amount of any sales tax credits taken pursuant to subsection (1) of this section.

(3) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and KRS 154.29-010 to 154.29-060 and the allowable sales tax credit which an approved company may retain under this section and KRS 154.29-010 to 154.29-060.

Section 6. KRS 148.022 is amended to read as follows:

(1) The Department of Local Government shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States Bureau of Outdoor Recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the Tourism ***Development*** Cabinet for administrative purposes.

Section 7. KRS 148.260 is amended to read as follows:

(1) There is hereby created and established an agency of state government to be known as the Kentucky Horse Park Commission which shall constitute a separate administrative body of state government within the meaning of KRS

12.010(8) and under the provisions of KRS 12.015 shall be attached to the Tourism ***Development*** Cabinet for administrative purposes.

(2) The commission shall be composed of thirteen (13) members who possess the ability to provide broad management expertise and direction in the operation of the Kentucky Horse Park and shall, to the extent possible, represent the diverse interest of the Kentucky horse industry. Of these, eleven (11) members shall be appointed by the Governor. Two (2) of these appointed members of the commission shall represent the equine industry; and two (2) members shall be active in industry and commerce. The secretary of the Cabinet for Economic Development and the secretary of the Tourism ***Development*** Cabinet shall serve as ex officio members with full voting rights. Any vacancy on the commission shall be filled by the Governor for the unexpired term.

(3) The appointed members of the commission shall hold their offices for a term of four (4) years, except that for the initial appointment to the commission, two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and three (3) members shall serve a term of four (4) years.

(4) The commission shall meet quarterly and shall be headed by a chairman appointed by the Governor. The chairman shall preside over the commission meetings. The chairman may call special meetings of the commission upon a request of the majority of the members of the commission.

(5) Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky Horse Park.

(6) The commission shall establish and maintain an office at the Kentucky State Horse Park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.

(7) The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of six (6) members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.

(8) The Governor may establish an advisory committee to advise in the administration, development and operation of the horse park or other functions, activities, and programs provided for or authorized by KRS 148.260 to 148.320.

Section 8. KRS 148.522 is amended to read as follows:

(1) The Tourism ***Development*** Cabinet shall consist of the Office of the Secretary,~~[the Office of Film Promotion,]~~ the Office of General Counsel, the Office of Administrative Services, the Department of Travel~~[Development]~~, the Department of Parks, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.

(2) The ***Tourism Development Cabinet***~~[Office of Film Promotion shall be attached to the Office of the Secretary and shall be headed by an executive director appointed under KRS 12.050. The offices]~~ shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.

(3) The Office of General Counsel shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet and shall be directly responsible to the secretary.

(4) The Department of Travel~~[Development]~~ shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.

(5) The Divisions of Tourism Services and Marketing and Advertising Services are created within the Department of Travel~~[Development]~~. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 9. KRS 148.815 is amended to read as follows:

(1) The State Parks Commission is hereby created in order to provide oversight and advice on the parks capital maintenance and renovation fund, capital construction, parks mission, and management. For administrative purposes, this commission is attached to the Department of Parks, which shall provide necessary support staff and services.

(2) The State Parks Commission shall consist of the following members: the commissioner of the Department of Parks; the deputy commissioner of support services; the commissioner of the Department of Fish and Wildlife Resources; the secretary of the Tourism ***Development*** Cabinet; the director of the Kentucky Nature Preserves Commission; the executive director of the Kentucky Heritage Council; the commissioner of the Department of Personnel; and six (6) other members appointed by the Governor, including a resort park manager, and five (5) citizen members including a certified public accountant, a registered architect, an individual who is experienced in tourism promotion, an individual who is experienced in hotel or motel operations, and an individual who is experienced in restaurant operations. The citizen members and resort park manager shall serve four (4) year terms, unless sooner removed for cause; all other members shall serve during their terms of office. The commissioner of the Department of Parks shall act as chairman of the

commission. Each citizen member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

Section 10. KRS 154.10-010 is amended to read as follows:

(1) (a) The Kentucky Economic Development Partnership, a board governing the Cabinet for Economic Development, is created and established, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through sustainable economic development, as prescribed in KRS 154.01-020.

(b) The board shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 12.010, but it and the cabinet shall not be subject to the reorganization by the Governor, KRS Chapter 12 notwithstanding.

(c) The board shall serve as the governing body of the cabinet and shall exercise all powers and authorities conferred upon it by statute, including, but not limited to, the following functions:

1. Strategic planning;
2. Finance;
3. Business assistance;
4. Marketing and promotion;
5. Community development;
6. Workforce development;
7. Innovation; and
8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.

(2) The board shall consist of eleven (11) voting members and two (2) nonvoting members. The eleven (11) voting members shall consist of the Governor, the secretary of the Finance and Administration Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, and eight (8) private sector members who shall be appointed by the Governor. The secretary of the Governor's Executive Cabinet shall serve as a voting member upon the absence of the Governor. The secretary of the Cabinet for Economic Development and the secretary of the Tourism ***Development*** Cabinet shall serve as nonvoting members.

(3) By no later than thirty (30) days after July 14, 1992, the governing bodies of each of the following organizations shall meet and nominate two (2) persons from each of the six (6) Congressional districts of the Commonwealth and two (2) persons from the state at large, as candidates for the initial appointment as private sector members to the board:

(a) The Kentucky Industrial Development Council;
(b) The Associated Industries of Kentucky;
(c) The Kentucky State AFL-CIO;
(d) The Kentucky Farm Bureau Federation;
(e) The Kentucky Chamber of Commerce; and
(f) The Kentucky Economic Development Corporation.

(4) The Governor shall select the original eight (8) private sector members from the aggregation of the lists provided pursuant to subsection (3) with at least one (1) appointment being chosen from each organization's list and at least one (1) appointment being chosen from each Congressional district. After the initial appointments, appointments to vacancies shall be made in the same manner as prescribed in subsection (3) of this section, except that there is no requirement that the vacancy be filled from the same organization's list as the original appointment.

(5) The terms of office of the initial appointments of the private sector members to the board shall be staggered so that one-fourth (1/4) of all appointments shall expire one (1), two (2), three (3), and four (4) years, respectively, from the date of their appointment. All succeeding appointments shall be for four (4) years.

(6) In making appointments to the board, the Governor shall assure broad geographical representation, as well as representation from the major sectors of Kentucky's economy by leading executives with a knowledge of the problems of large and small businesses, local economic development, and the transfer of research and development from the laboratory to the marketplace. In filling vacancies, the Governor shall attempt to assure the continuing representation on the board of broad constituencies of Kentucky's economy, including manufacturing and agriculture.

(7) Vacancies on the board which may occur from time to time shall be filled as follows:

(a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established for the original appointment.

(b) If any private sector member misses more than two (2) consecutive meetings of the board, then that position shall be declared vacant and filled in accordance with this section.

(8) The board shall meet quarterly and at other times upon call of the chairman or a majority of the board.

(9) A quorum shall be a majority of the voting membership of the board.

(10) A quorum shall be required to organize and conduct the business of the board, except that an affirmative vote of seven (7) or more members of the entire board shall be required to fire the cabinet's secretary, and to adopt or amend the strategic plan.

(11) Private sector members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.

(12) All existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, and real and personal property of the Cabinet for Economic Development, as of July 14, 1992, shall be under the authority and control of the board.

Section 11. KRS 154.29-010 is amended to read as follows:

As used in KRS 139.536 and KRS 154.29-010 to 154.29-060, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 154.29-050, on behalf of the authority and an approved company on or before June 30, 2002, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism ***Development*** Cabinet and the authority pursuant to KRS 154.29-050 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Economic Development Finance Authority as set forth in KRS 154.20-010;

(5) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, or business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism ***Development*** Cabinet pursuant to KRS 154.29-030;

(6) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 154.29-010 to 154.29-060;

(7) "Inducements" means the Kentucky sales tax credit as prescribed in KRS 139.536;

(8) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 154.29-010 to 154.29-060;

(9) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(10) "Tourism attraction" means a cultural or historical site, recreation or entertainment facility, or area of natural phenomenon or scenic beauty. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless the facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project;

(b) Facilities that are primarily devoted to the retail sale of goods, unless the goods are created by individuals at the site of the tourism attraction project or if the sale of goods is incidental to the tourism attraction project; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(11) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 12. KRS 154.29-030 is amended to read as follows:

(1) The secretary of the Tourism ***Development*** Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism ***Development*** Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 154.29-040(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism ***Development*** Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism ***Development*** Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000) and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. Based upon a review of these materials, if the secretary of the Tourism ***Development*** Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism ***Development*** Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism ***Development*** Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(6) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism ***Development*** Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 13. KRS 154.29-040 is amended to read as follows:

(1) The authority shall establish standards for preliminary approval and final approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The authority shall consult with the secretary of the Tourism ***Development*** Cabinet when establishing standards to ensure that standards established pursuant to KRS 154.29-030(1) and subsection (1) of this section do not conflict.

(3) At the written request of the secretary of the Tourism ***Development*** Cabinet, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and preliminarily authorizing the undertaking of the tourism attraction project.

(4) The authority shall review the report of the consultant prepared pursuant to KRS 154.29-030(4), the recommendation of the secretary of the Tourism ***Development*** Cabinet, and other information that has been made available to the authority in order to assist the authority in determining whether the tourism attraction project will further the purposes of KRS 139.536 and KRS 154.29-010 to 154.29-060.

(5) The criteria for final approval of eligible companies and tourism attraction projects shall include, but not be limited to, the criteria set forth in KRS 154.29-030(4).

(6) After a review of the consultant's report, the recommendation of the secretary of the Tourism ***Development*** Cabinet and other information made available to the authority, the authority, by resolution, may give its final approval to the eligible company's application for a tourism attraction project and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(7) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 14. KRS 154.47-050 is amended to read as follows:

The Kentucky Wood Products Competitiveness Corporation shall work in cooperation with the Department of Parks of the Tourism ***Development*** Cabinet to:

(1) Develop and design Kentucky-made furniture for use in state parks;

(2) Make state parks facilities living showrooms for Kentucky furniture and other wood products; and

(3) Establish retail showrooms where Kentucky-made furniture and other wood products can be displayed for sale to, or order by, park visitors.

Section 15. KRS 176.500 is amended to read as follows:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission shall be attached to the Office of the Secretary of the Tourism ***Development*** Cabinet for administrative purposes.

(2) The commission shall consist of the following ten (10) members: Four (4) citizen members, appointed by the Governor, and consisting of one (1) member from each of the four (4) counties that border the Mississippi River, who shall serve a term of four (4) years and may serve until a successor is appointed. Four (4) members shall be the respective county judges/executive of Ballard, Carlisle, Fulton, and Hickman Counties in Kentucky. Other members shall be the secretary of the Tourism ***Development*** Cabinet or his designee; and the secretary of the Transportation Cabinet, or his designee. The commission shall annually elect a chairman and shall meet quarterly or upon call of the chairman with ten (10) days' written notice. Six (6) members present shall constitute a quorum for the official conduct of business. The commission may enter into contracts with the Purchase Area Development District to provide administrative services.

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical, and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman, and Fulton.

Section 16. KRS 186.1864 is amended to read as follows:

(1) Any person who complies with the provisions of KRS 186.186 may apply for a special youth soccer license plate.

(2) After the Transportation Cabinet offsets its administrative costs for computer programming of a special youth soccer license plate, all revenues generated by the initial state fee for youth soccer license plates pursuant to KRS 186.186 shall be forwarded by the Transportation Cabinet to the Tourism ***Development*** Cabinet on a quarterly basis. The Tourism ***Development*** Cabinet shall deposit all funds received pursuant to this subsection into a trust and agency account dedicated to promoting and furthering youth soccer programs in Kentucky. The Tourism ***Development*** Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish criteria for awarding grants to nonprofit organizations that promote youth soccer programs in Kentucky.

(3) Youth soccer license plates shall contain the words "Support Youth Soccer" and shall boldly feature the 1995 World Cup soccer emblem. The name "Kentucky" and the expiration date shall appear on the youth soccer license plate. The cabinet may use any combination of letters or numerals as needed in the design. The application for a youth soccer license plate may be combined with a request that the plate be a personalized plate authorized pursuant to KRS 186.174.

Section 17. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of

propulsion, except for the following:

(a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters; and

(b) Boats propelled by human power employing the use of hand or foot operation;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Waters of this state" means any waters within the territorial limits of this state;

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(6) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(7) "Cabinet" means the Tourism ***Development*** Cabinet;

(8) "Department" means the Department of Fish and Wildlife Resources;

(9) "License" and "certificate of number" as used herein are synonymous;

(10) "Clerk" means county clerk;

(11) "Division of Water Patrol" means the Division of Water Patrol, Department of Fish and Wildlife Resources within the Tourism ***Development*** Cabinet;

(12) "Title" means the certificate of title; and

(13) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources.

Section 18. KRS 235.020 is amended to read as follows:

(1) The Division of Water Patrol shall be established in the Department of Fish and Wildlife Resources within the Tourism ***Development*** Cabinet. The Division of Water Patrol shall be headed by a director appointed by the Commissioner of the Department of Fish and Wildlife Resources, subject to the approval of the Governor.

(2) The Division of Water Patrol shall be authorized to employ necessary personnel to carry out the functions assigned to the division in this chapter.

(3) The Division of Water Patrol shall be composed of organizational entities deemed appropriate by the secretary of the Tourism ***Development*** Cabinet.

Section 19. KRS 235.030 is amended to read as follows:

This chapter shall be known as the State Boating Act and shall be administered by the Division of Water Patrol within the Department of Fish and Wildlife Resources in the Tourism ***Development*** Cabinet except the Transportation Cabinet shall be responsible for administering the boat numbering, registration, and titling requirements.

Section 20. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of title issued for that boat with a certificate of transfer indorsed thereon. If the motorboat has not been issued a certificate of title as noted on the certificate of registration, the person shall receive a completed assignment of title on a boat transaction record and the certificate of registration.

(2) It shall be the duty of the purchaser to promptly submit the indorsed certificate of title or boat transaction record and certificate of registration to the county clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated. The purchaser shall apply for a new certificate of title and registration pursuant to KRS 235.050. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information. The clerk shall forward the indorsed certificate of title or boat transaction record and certificate of registration and new application for title and registration to the Transportation Cabinet. Except when registration is prohibited by law, any unexpired registration shall remain valid after transfer until expiration occurs according to law.

(3) For transferring the registration, the clerk shall collect a fee of five dollars ($5). The clerk shall retain two dollars ($2), the Transportation Cabinet shall receive two dollars ($2) and the Department of Fish and Wildlife Resources within the Tourism ***Development*** Cabinet shall receive one dollar ($1). The fee received by the Transportation Cabinet shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program. The fee for transferring the title shall be as required by KRS 235.085.

(4) If a transferee does not promptly submit the necessary documents to the county clerk as required by law in order to complete the transfer transaction, a transferor may submit to the county clerk, after the passage of fifteen (15) calendar days, in his county of residence, an affidavit that he has transferred his interest in a specific motorboat and the clerk may enter appropriate data into the AVIS system which would restrict any registration transaction from occurring on that vehicle until the transfer was processed.

(5) If the owner junks or otherwise renders a motorboat unfit for future use, he shall deliver the title to the county clerk of

the county in which the motorboat is junked. The county clerk shall immediately return the title to the Transportation Cabinet. The owner shall pay to the county clerk fifty cents ($0.50) for his services.

Section 21. KRS 260.165 is amended to read as follows:

(1) The Grape Industry Advisory Committee is hereby created within the Department of Agriculture. The purpose of the committee shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

(2) The committee shall be composed of the Commissioner of Agriculture, or his designee, and six (6) members appointed by the Governor. Of the six (6) gubernatorial appointments, the Governor is encouraged to appoint one (1) from list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the Tourism ***Development*** Cabinet, and two (2) from a list of three (3) candidates submitted by the Kentucky Vineyard Society.

(3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The committee shall select a chairman and shall meet at the times and places that he designates. Four (4) members present at any meeting shall constitute a quorum. Upon the written request of any three (3) members, the chairman shall call a meeting of the committee at the time and place requested.

(4) Members shall receive no compensation but shall be reimbursed, payable from the Division of Markets, for any actual expense incurred in performing their duties.

Section 22. The following KRS section is repealed:

153.530 Citizens Advisory Commission on Kentucky Films -- Powers and duties.

Section 23. The General Assembly confirms Executive Order 96-1332, dated October 1, 1996, to the extent it is not otherwise confirmed or superseded by this Act.

HB 345, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 97-1625, dated December 16, 1997, which creates and establishes the Division of Technology and Communications within the Department of Parks in the Tourism Development Cabinet. The Division of Technology and Communications shall be headed by a director appointed by the secretary of the Tourism Development Cabinet pursuant to KRS 12.050 and shall report directly to the commissioner of Parks. Nothing in this Act shall be construed as confirming the reorganization of the Tourism Cabinet as the Tourism Development Cabinet, which is the subject of a separate reorganization order confirmation. In the event that the creation of the Tourism Development Cabinet is not confirmed during this 1998 Regular Session, functions in this Act assigned to that cabinet shall be assigned instead to the Tourism Cabinet.

HB 397, AN ACT relating to tourism development and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.29-010 is amended to read as follows:

As used in KRS 139.536 and KRS 154.29-010 to 154.29-060, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 154.29-050, on behalf of the authority and an approved company on or before June 30, 2002, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism Cabinet and the authority pursuant to KRS 154.29-050 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

  (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

  (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

  (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

  (d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

  (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Economic Development Finance Authority as set forth in KRS 154.20-010;

(5) "Crafts and products center" means a facility designed to promote Kentucky and where a minimum of eighty percent (80%) of sales are of Kentucky-made products and crafts;

(6)[~~(5)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, or business trust, or any other entity operating or intending to operate ***directly or indirectly through lessees, or directly and indirectly through lessees,*** a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Cabinet pursuant to KRS 154.29-030***. An eligible company may operate directly or indirectly through a lessee***;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8)[~~(6)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 154.29-010 to 154.29-060;

(9)[~~(7)~~] "Inducements" means the Kentucky sales tax ***refund***[~~credit~~] as prescribed in KRS 139.536;

(10)[~~(8)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 154.29-010 to 154.29-060;

(11)[~~(9)~~] "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12)[~~(10)~~] "Tourism attraction" means a cultural or historical site, ***a*** recreation or entertainment facility, ***an***[~~or~~] area of natural phenomenon or scenic beauty, ***a Kentucky crafts and products center, or an entertainment destination center***. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless the facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project***, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency***;

(b) Facilities that are primarily devoted to the retail sale of goods, ***other than an entertainment destination center, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction***[~~unless the goods are created by individuals at the site of the tourism attraction project or if the sale of goods is incidental to the tourism attraction project~~]; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(13)[~~(11)~~] "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 2. KRS 154.29-030 is amended to read as follows:

(1) The secretary of the Tourism Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 154.29-040(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000) and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. ***If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Cabinet. The applicant shall submit the public infrastructure purpose with its application.*** Based upon a review of these materials, if the secretary of the Tourism Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

- (a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (b) Shall have costs in excess of one million dollars ($1,000,000);
- (c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;
- (d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year; and
- (e) Shall not adversely affect existing employment in the Commonwealth.

(5) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(6) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 3. KRS 154.29-040 is amended to read as follows:

(1) The authority shall establish standards for preliminary approval and final approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The authority shall consult with the secretary of the Tourism Cabinet when establishing standards to ensure that standards established pursuant to KRS 154.29-030(1) and subsection (1) of this section do not conflict.

(3) At the written request of the secretary of the Tourism Cabinet, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and preliminarily authorizing the undertaking of the tourism attraction project.

(4) After the adoption of the authority's preliminary approval, an agent designated by the Tourism Cabinet shall hold at least one (1) public hearing to solicit public comments regarding the designation of an eligible company as a preliminarily approved company and the preliminary authorization for the undertaking of a tourism attraction project. Notice of the public hearing shall be given in accordance with KRS Chapter 424.

(5)[~~(4)~~] The authority shall review the report of the consultant prepared pursuant to KRS 154.29-030(4), the recommendation of the secretary of the Tourism Cabinet, ***the report prepared by the agent documenting all comments, both written and oral, received at the public hearing required by subsection (4) of this section,*** and other information that has been made available to the authority in order to assist the authority in determining whether the tourism attraction project will further the purposes of KRS 139.536 and KRS 154.29-010 to 154.29-060.

(6)[~~(5)~~] The criteria for final approval of eligible companies and tourism attraction projects shall include, but not be limited to, the criteria set forth in KRS 154.29-030(4).

(7)[~~(6)~~] After a review of the consultant's report, the recommendation of the secretary of the Tourism Cabinet and other information made available to the authority, the authority, by resolution, may give its final approval to the eligible company's application for a tourism attraction project and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(8)[~~(7)~~] All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 4. KRS 154.29-050 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;

(b) A date certain by which the approved company shall have completed the tourism attraction project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and

(c) The following provisions:

1. The term shall be ten (10) years from the later of:

a. The date of the final approval of the project; or

b. The completion date specified in the agreement, if this completion date is within two (2) years of the date of the final approval of the project;

2.[~~ In any fiscal year of the approved company during which an agreement is in effect, if the accrued sales tax credit granted to the approved company exceeds two and one-half percent (2.5%) of the approved costs then expended, then the approved company shall pay the excess to the Commonwealth as sales tax;~~

~~3.~~] Within forty-five (45) days after the end of each ***half of each*** fiscal year of the approved company, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 154.29-010 to 154.29-060***. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section***; and

3.[~~4.~~] The approved company shall not receive a ***sales tax refund as prescribed by Section 6 of this Act***[~~credit against the Kentucky sales tax imposed by KRS 139.200~~] with respect to any fiscal year if:

a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or

b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010***, excluding its lessees,*** may be ***granted***[~~permitted~~] a ***sales tax refund under***[~~credit as provided in~~] KRS 139.536 ***from***[~~against~~] the Kentucky sales tax imposed by KRS 139.200 on the sales[~~ by the approved company~~] generated by or arising ***at***[~~from~~] the tourism attraction project as defined in KRS 154.29-010.

Section 5. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The secretary of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in

subsection (1) above. Except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by Section 6 of this Act.

Section 6. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010***, excluding its lessees,*** may be ***granted a sales tax refund from***[~~permitted a credit against~~] the Kentucky sales tax imposed by KRS 139.200 on the sales[~~ by the approved company~~] generated by or arising ***at***[~~from~~] the tourism attraction project as defined in KRS 154.29-010. The approved company shall have no obligation to refund or otherwise return any amount of this ***sales tax refund***[~~credit~~] to the persons from whom the sales tax was collected. The term of the agreement granting ***the sales tax refund***[~~this credit~~] shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.[~~ However, in no event shall credits accrue prior to July 1, 1997.~~]

(2) The total sales tax ***refund***[~~credit~~] allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability ***the approved company or its lessees*** or twenty-five percent (25%) of the approved costs. The ***sales tax refund***[~~credit~~] shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost[~~ and shall be allowed for each fiscal year of the approved company during the term of the agreement for which a sales tax return of the approved company is filed~~]. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, ***any***[~~an approved company may carry forward an~~] unused ***inducements as set forth in subsection (9) of Section 1 of this Act***[~~accrued credit~~] from a previous year ***may be carried forward*** to any succeeding ***year***[~~tax period~~] during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through ***sales tax refunds***[~~credits~~]. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the Tourism Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 154.29-010 to 154.29-060***, and their lessees,*** and the amount of ***the sales tax refunds***[~~any~~] sales tax credits taken pursuant to subsection (1) of this section.

(3) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(4)[~~(3)~~] The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and KRS 154.29-010 to 154.29-060[~~ and the allowable sales tax credit which an approved company may retain under this section and KRS 154.29-010 to 154.29-060~~].

Section 7. If the reorganization of the Tourism Cabinet into the Tourism Development Cabinet is confirmed by this 1998 Regular Session of the General Assembly, references to the Tourism Cabinet in this Act shall be codified as the Tourism Development Cabinet.

Section 8. Whereas it is vital for the economic well-being of the Commonwealth to promote the development of the tourism industry, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 397** is as follows:

AN ACT relating to tourism development and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.29-010 is amended to read as follows:

As used in KRS 139.536 and KRS 154.29-010 to 154.29-060, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 154.29-050, on behalf of the authority and an approved company on or before June 30, 2002, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the Tourism Cabinet and the authority pursuant to KRS 154.29-050 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Economic Development Finance Authority as set forth in KRS 154.20-010;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6)[~~(5)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship,[~~ or~~] business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Cabinet pursuant to KRS 154.29-030***. An eligible company may operate or intend to operate directly or indirectly through a lessee***;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8)[~~(6)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 154.29-010 to 154.29-060;

(9)[~~(7)~~] "Inducements" means the Kentucky sales tax ***refund***[~~credit~~] as prescribed in KRS 139.536;

(10)[~~(8)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 154.29-010 to 154.29-060;

(11)[~~(9)~~] "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12)[~~(10)~~] "Tourism attraction" means a cultural or historical site, ***a*** recreation or entertainment facility, ***an***[~~or~~] area of natural phenomenon or scenic beauty, ***a Kentucky crafts and products center, or an entertainment destination center***. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless the facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project***, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency***;

(b) Facilities that are primarily devoted to the retail sale of goods, ***other than an entertainment destination center, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction***[~~unless the goods are created by individuals at the site of the tourism attraction project or if the sale of goods is incidental to the tourism attraction project~~]; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the

Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(13)[~~(11)~~] "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 2. KRS 154.29-030 is amended to read as follows:

(1) The secretary of the Tourism Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the Tourism Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 154.29-040(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the Tourism Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the Tourism Cabinet shall make inquiries and request materials of the applicant that shall include, but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000) and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. ***If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the Tourism Cabinet. The applicant shall submit the public infrastructure purpose with its application.*** Based upon a review of these materials, if the secretary of the Tourism Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the Tourism Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the Tourism Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(6) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the Tourism Cabinet shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 3. KRS 154.29-040 is amended to read as follows:

(1) The authority shall establish standards for preliminary approval and final approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The authority shall consult with the secretary of the Tourism Cabinet when establishing standards to ensure that standards established pursuant to KRS 154.29-030(1) and subsection (1) of this section do not conflict.

(3) At the written request of the secretary of the Tourism Cabinet, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and preliminarily authorizing the undertaking of the tourism attraction project.

(4) After the adoption of the authority's preliminary approval, an agent designated by the Tourism Cabinet shall hold at least one (1) public hearing to solicit public comments regarding the designation of an eligible company as a preliminarily approved company and the preliminary authorization for the undertaking of a tourism attraction project. Notice of the public hearing shall be given in accordance with KRS Chapter 424.

(5)[~~(4)~~] The authority shall review the report of the consultant prepared pursuant to KRS 154.29-030(4), the recommendation of the secretary of the Tourism Cabinet, ***the report prepared by the agent documenting all comments, both written and oral, received at the public hearing required by subsection (4) of this section,*** and other information that has been made available to the authority in order to assist the authority in determining whether the tourism attraction project will further the purposes of KRS 139.536 and KRS 154.29-010 to 154.29-060.

(6)[~~(5)~~] The criteria for final approval of eligible companies and tourism attraction projects shall include, but not be limited to, the criteria set forth in KRS 154.29-030(4).

(7)[~~(6)~~] After a review of the consultant's report, the recommendation of the secretary of the Tourism Cabinet and other information made available to the authority, the authority, by resolution, may give its final approval to the eligible company's application for a tourism attraction project and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(8)[~~(7)~~] All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 4. KRS 154.29-050 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

  (a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;

  (b) A date certain by which the approved company shall have completed the tourism attraction project. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and

  (c) The following provisions:

    1. The term shall be ten (10) years from the later of:

      a. The date of the final approval of the project; or

      b. The completion date specified in the agreement, if this completion date is within two (2) years of the date of the final approval of the project;

    2.[~~ In any fiscal year of the approved company during which an agreement is in effect, if the accrued sales tax credit granted to the approved company exceeds two and one-half percent (2.5%) of the approved costs then expended, then the approved company shall pay the excess to the Commonwealth as sales tax;~~

    ~~3.~~] Within forty-five (45) days after the end of each ***half of each*** fiscal year of the approved company, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 154.29-010 to 154.29-060***. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section***; and

    3.[~~4.~~] The approved company shall not receive a ***sales tax refund as prescribed by Section 6 of this Act***[~~credit against the Kentucky sales tax imposed by KRS 139.200~~] with respect to any fiscal year if:

      a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or

      b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010***, excluding its lessees,*** may be ***granted***[~~permitted~~] a ***sales tax refund under***[~~credit as provided in~~] KRS 139.536 ***from***[~~against~~] the Kentucky sales tax imposed by KRS 139.200 on the sales[~~ by the approved company~~] generated by or arising ***at***[~~from~~] the tourism attraction

project as defined in KRS 154.29-010.

Section 5. KRS 131.183 is amended to read as follows:

(1) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate. The tax interest rate for tax liabilities that are assessed on or after July 1, 1982, shall be sixteen percent (16%). This tax interest rate shall apply until January 1, 1983, when the tax interest rate shall be adjusted as provided in this section. The secretary of revenue shall adjust the tax interest rate not later than November 15 of any year, beginning in 1982, if the adjusted prime rate charged by banks during October of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent, and shall become effective on January 1 of the immediately succeeding year.

(2) Interest shall be allowed and paid upon any overpayment in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes at the rate provided in subsection (1) above. Except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the due date of the return or the date the tax was paid, whichever is later, and in no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by Section 6 of this Act.

Section 6. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010***, excluding its lessees,*** may be ***granted a sales tax refund from***[~~permitted a credit against~~] the Kentucky sales tax imposed by KRS 139.200 on the sales[~~ by the approved company~~] generated by or arising ***at***[~~from~~] the tourism attraction project as defined in KRS 154.29-010. The approved company shall have no obligation to refund or otherwise return any amount of this ***sales tax refund***[~~credit~~] to the persons from whom the sales tax was collected. The term of the agreement granting ***the sales tax refund***[~~this credit~~] shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.[~~ However, in no event shall credits accrue prior to July 1, 1997.~~]

(2) The total sales tax ***refund***[~~credit~~] allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability ***of the approved company and its lessees*** or twenty-five percent (25%) of the approved costs. The ***sales tax refund***[~~credit~~] shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost[~~ and shall be allowed for each fiscal year of the approved company during the term of the agreement for which a sales tax return of the approved company is filed~~]. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, ***any***[~~an approved company may carry forward an~~] unused ***inducements as set forth in subsection (9) of Section 1 of this Act***[~~accrued credit~~] from a previous year ***may be carried forward*** to any succeeding ***year***[~~tax period~~] during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through ***sales tax refunds***[~~credits~~]. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the Tourism Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 154.29-010 to 154.29-060***, and their lessees,*** and the amount of ***the sales tax refunds issued***[~~any sales tax credits taken~~] pursuant to subsection (1) of this section.

(3) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(4)[~~(3)~~] The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and KRS 154.29-010 to 154.29-060[~~ and the allowable sales tax credit which an approved company may retain under this section and KRS 154.29-010 to 154.29-060~~].

Section 7. If the reorganization of the Tourism Cabinet into the Tourism Development Cabinet is confirmed by this 1998 Regular Session of the General Assembly, references to the Tourism Cabinet in this Act shall be codified as the Tourism Development Cabinet.

Section 8. Whereas it is vital for the economic well-being of the Commonwealth to promote the development of the tourism industry, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 399, AN ACT relating to electric cooperatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.170 is amended to read as follows:

(1) Any two (2) or more corporations created under this chapter may enter into an agreement for their consolidation~~[to provide service in a continuous territory]~~. The agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, which shall be not less than five (5), the time of the annual meetings of the consolidated corporation and the names of the directors who are to serve until the first annual meeting. If the agreement is approved by a majority vote of the members of each corporation ***cast as authorized by KRS 279.070***~~[present and voting at the meeting at which the proposed consolidation is voted upon]~~, the directors named in the agreement shall subscribe and acknowledge articles in triplicate originals conforming substantially to the original articles of incorporation, and entitled and indorsed "Articles of Consolidation of ....."

(2) The articles of consolidation shall state:

(a) The names of the corporations being consolidated.

(b) The name of the consolidated corporation.

(c) Such other items as are required or permitted to be set forth in the original articles of incorporation.

(3) The articles of consolidation shall be filed, recorded and approved in the same manner, and shall take effect upon approval, as is provided in KRS 279.040 for original articles of incorporation.

(4) The articles of consolidation may be amended in the same manner as articles of incorporation may be amended under KRS 279.050.

The Committee Substitute to **HB 399** is as follows:

AN ACT relating to electric cooperatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 279.170 is amended to read as follows:

(1) Any two (2) or more corporations created under this chapter may enter into an agreement for their consolidation~~[to provide service in a continuous territory]~~. The agreement shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, which shall be not less than five (5), the time of the annual meetings of the consolidated corporation and the names of the directors who are to serve until the first annual meeting. If the agreement is approved by a majority vote of ***those***~~[the]~~ members ***voting at***~~[of]~~ each corporation***, with the votes cast as authorized by KRS 279.070***~~[present and voting at the meeting at which the proposed consolidation is voted upon]~~, the directors named in the agreement shall subscribe and acknowledge articles in triplicate originals conforming substantially to the original articles of incorporation, and entitled and indorsed "Articles of Consolidation of ....."

(2) The articles of consolidation shall state:

(a) The names of the corporations being consolidated.

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(c) Such other items as are required or permitted to be set forth in the original articles of incorporation.

(3) The articles of consolidation shall be filed, recorded and approved in the same manner, and shall take effect upon approval, as is provided in KRS 279.040 for original articles of incorporation.

(4) The articles of consolidation may be amended in the same manner as articles of incorporation may be amended under KRS 279.050.

HB 405, AN ACT relating to the emergency management assistance compact.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Emergency Management Assistance Compact

ARTICLE I. Purpose and Authorities.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term 'states' is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II. General Implementation.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, dull, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III. Party State Responsibilities.

A. It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

1. *Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;*
2. *Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;*
3. *Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;*
4. *Assist in warning communities adjacent to or crossing the state boundaries;*
5. *Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;*
6. *Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and*
7. *Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.*

B. The authorized representative of a party state may request assistance to another party state by contracting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

1. *A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;*
2. *The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed and;*
3. *The specific place and time for staging of the assisting party's response and a point of contact at that location.*

C. There shall be frequent consultation between state officials who have assigned emergency management *responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.*

ARTICLE IV. Limitations.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the Governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI. Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

ARTICLE X. Evacuation.

Plans for the orderly evacuation and interstate reception for portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in *which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.*

ARTICLE XI. Implementation.

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII. Validity.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

ARTICLE XIII. Additional Provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would in the absence of express statutory authorization be prohibited under Section 1385 of Title 18 of the United States Code.

Section 2. KRS 39.460 is amended to read as follows:

The Governor is hereby authorized to take such actions as are necessary to effectuate the provisions of the compact set forth in *Section 1 of this Act*[~~KRS 39.450~~].

Section 3. The following KRS section is repealed:

39.450 Authority to execute Interstate Emergency Management and Disaster Compact.

Section 4. The participation of the Commonwealth of Kentucky in the Interstate Emergency Management and Disaster Compact set forth in KRS 39.450 is terminated.

The Committee Substitute to **HB 405** is as follows:

AN ACT relating to the emergency management assistance compact.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Emergency Management Assistance
Compact

ARTICLE I. Purpose and Authorities.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term 'states' is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency disaster that is duly declared by the Governor of the affected state, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods.

Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

ARTICLE II. General Implementation.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

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  1. Review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;

  2. Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;

  3. Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;

  4. Assist in warning communities adjacent to or crossing the state boundaries;

  5. Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;

  6. Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and

  7. Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

B. The authorized representative of a party state may request assistance to another party state by contracting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

  1. A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue;

  2. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed and;

  3. The specific place and time for staging of the assisting party's response and a point of contact at that location.

C. There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States Government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV. Limitations.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide *reasonable protection for such state.*

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the Governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V. Licenses and Permits.

Whenever any person holds a license, certificate, or other permit issued by any party state to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving state party, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI. Liability

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII. Supplementary Agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein shall preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII. Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX. Reimbursement.

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

ARTICLE X. Evacuation.

Plans for the orderly evacuation and interstate reception for portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines, and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI. Implementation.

A. This compact shall become effective immediately upon its enactment into law by any two states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the Governor of the withdrawing state has given notice in writing of such withdrawal to the Governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

C. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

ARTICLE XII. Validity.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected.

ARTICLE XIII. Additional Provisions.

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The Governor is hereby authorized to take such actions as are necessary to effectuate the provisions of the compact set forth in *Section 1 of this Act*[~~KRS 39.450~~].

Section 3. The following KRS section is repealed:

39.450 Authority to execute Interstate Emergency Management and Disaster Compact.

Section 4. The participation of the Commonwealth of Kentucky in the Interstate Emergency Management and Disaster Compact set forth in KRS 39.450 is terminated.

The Committee on Licensing and Occupations reported **HB 218**, with Committee Substitute attached thereto, **SB 22**, **SB 37**, and **SB 120**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 218, AN ACT relating to inactive license status for cosmetology licensees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.050 is amended to read as follows:

(1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:
  (a) Is of good moral character and temperate habit;
  (b) Is at least sixteen (16) years of age;
  (c) Has at least two (2) years high school education or its equivalent;
  (d) Has graduated from a licensed school of cosmetology;
  (e) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and
  (f) Has paid a fee of twelve dollars ($12).

(2) The cosmetologist board shall issue a cosmetologist license to any person who:
  (a) Has at least two (2) years high school education, or its equivalent;
  (b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;
  (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and
  (d) Has paid a fee of fifteen dollars ($15).

(3) The cosmetologist board shall issue a license to act as a nail technician to any person who:
  (a) Is of good moral character and temperate habit;

(b) Has completed satisfactorily a nail technician course of study of six hundred (600) hours in a licensed school of cosmetology;

(c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician;

(d) Has two (2) years of high school education or its equivalent; and

(e) Has paid a fee of twelve dollars ($12).

(4) (a) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of twenty-five dollars ($25). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. If an owner is not a licensed cosmetologist, he shall have a licensed cosmetologist manage the beauty salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.

(b) The cosmetologist board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of twenty-five dollars ($25). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, a new license shall be purchased.

(c) Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this subsection.

(5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:

(a) Has paid a fee of twenty-five dollars ($25);

(b) Has a high school education and one (1) year experience as a licensed cosmetologist; and

(c) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall certify to the board the completion of one thousand (1,000) hours.

(6) The cosmetologist board shall issue a license to teach cosmetology to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has held an apprentice instructor license for at least six (6) months;

(d) Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; and

(e) Has paid a fee of thirty-five dollars ($35).

(7) The cosmetologist board may issue a license to operate a school of cosmetology to any person who:

(a) Has complied with the administrative regulations promulgated by the board including, but not limited to, administrative regulations governing the necessary equipment, supplies, and facilities;

(b) Has furnished proof to the board that the school of cosmetology is needed, that he is otherwise qualified to operate a school of cosmetology, and that he intends to establish a bona fide school for the education and training of competent cosmetologists and that he will employ a sufficient number of licensed instructors of cosmetology to conduct the school;

(c) That the licensee shall have as manager at all times a person licensed as an instructor who will be charged with the responsibility of having a sufficient number of licensed instructors of cosmetology to conduct the school. The designated manager shall be approved by the board before a license may be issued;

(d) Complies with the administrative regulations promulgated by the board including, but not limited to, those regarding courses, curriculum, and hours of instruction;

(e) Otherwise complies with this chapter;

(f) Has paid a fee of one thousand dollars ($1,000);

(g) Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;

(h) Any student enrolling in the school shall pay a fee of five dollars ($5) to the board before enrollment in the school shall be allowed; and

(i) The transfer of any license to operate a school of cosmetology shall require the board's approval and shall become effective upon filing a new application with the board and paying a fee of one thousand dollars ($1,000).

(8) Licenses issued by the board shall be renewed upon receipt, beginning July 1 through July 31 of each year. Beginning July 1, 1997, any license shall be renewed by the board upon receipt, if the applicant has provided proof of continuing education as determined by the board by promulgation of an administrative regulation. Cosmetology instructors shall provide proof of eight (8) clock hours of continuing education, and cosmetologists and nail technicians shall provide proof of six (6) clock hours of continuing education. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section. Applications for renewal shall comply with the provisions of this chapter and the administrative regulations promulgated by the board. Any license application received or postmarked after July 31 shall be considered expired and the appropriate restoration fee required by subsection (11) of this section shall apply.

(9) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Apprentice cosmetologist -- $10;
(b) Cosmetologist -- $12;
(c) Nail technician -- $10;
(d) Beauty salon -- $15;
(e) Nail salon -- $15;
(f) Apprentice instructor of cosmetology -- $15;
(g) Instructor of cosmetology -- $25; and
(h) Cosmetology school -- $100.

(10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) Apprentice cosmetologist -- $25;
(b) Cosmetologist -- $35;
(c) Nail technician --$35;
(d) Instructor of cosmetology -- $50;
(e) Cosmetologist out-of-state -- $75;
(f) Instructor out-of-state -- $150; and
(g) Where examination is not required by the board -- $50.

(11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

(a) Apprentice cosmetologist -- $50;
(b) Cosmetologist -- $50;
(c) Nail technician -- $50;
(d) Beauty salon -- $50;
(e) Nail salon -- $50;
(f) Cosmetology school -- $500;
(g) Instructor -- $75; and
(h) Apprentice instructor -- $50.

(12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(a) Cosmetologists shall retake and pass the practical examination only;
(b) Apprentice cosmetologists shall complete one hundred fifty (150) additional hours training in a licensed school of cosmetology and pass the prescribed examination;
(c) Instructors of cosmetology shall retake and pass both the practical and science examination;
(d) Nail technicians shall retake and pass the practical examination, only; and
(e) The appropriate restoration fee as set forth in subsection (11) of this section shall be required.

(13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers, cosmetologists, and nail technicians shall pay a fee of thirty-five dollars ($35) for a permit that shall be in effect for ten (10) days. Guest artists performing before a nonprofit, recognized professional hairdressers, cosmetologists, and nail technicians group shall not be required to pay the fee.

(14) ***The board shall issue an inactive license to any person licensed under subsections (2), (3), and (6) of this section and in good standing with the board, upon application and submission of a five dollar ($5) fee. An inactive licensee shall not be required to complete the continuing education requirements contained in subsection (8) of this section or to annually renew the license. An inactive license may be restored to active status upon application to the board and payment of a fee equal to the applicable renewal fee. In addition, the board may require the completion of continuing education not to exceed the amount required for license renewal for one (1) year. A person who possesses an inactive license shall not engage in the practice of cosmetology for consideration, but an inactive licensee shall have the same right to purchase supplies as accorded an active licensee.***

(15) The fee for certification shall be five dollars ($5).

(16)[~~(15)~~] The fee for a duplicate license shall be five dollars ($5).

The Committee Substitute to **HB 218** is as follows:

AN ACT relating to inactive license status for cosmetology licensees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.050 is amended to read as follows:

(1) The cosmetologist board shall issue an apprentice cosmetologist license to any person who:
 (a) Is of good moral character and temperate habit;
 (b) Is at least sixteen (16) years of age;
 (c) Has at least two (2) years high school education or its equivalent;
 (d) Has graduated from a licensed school of cosmetology;
 (e) Has passed an examination prescribed by the board to determine fitness to practice as an apprentice cosmetologist; and
 (f) Has paid a fee of twelve dollars ($12).

(2) The cosmetologist board shall issue a cosmetologist license to any person who:
 (a) Has at least two (2) years high school education, or its equivalent;
 (b) Has practiced as a licensed cosmetology apprentice for at least six (6) months under the immediate supervision of a licensed cosmetologist;
 (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice cosmetology; and
 (d) Has paid a fee of fifteen dollars ($15).

(3) The cosmetologist board shall issue a license to act as a nail technician to any person who:
 (a) Is of good moral character and temperate habit;
 (b) Has completed satisfactorily a nail technician course of study of six hundred (600) hours in a licensed school of cosmetology;
 (c) Has satisfactorily passed an examination prescribed by the board to determine fitness to practice as a nail technician;
 (d) Has two (2) years of high school education or its equivalent; and
 (e) Has paid a fee of twelve dollars ($12).

(4) (a) The cosmetologist board shall issue a license to operate a beauty salon to any licensed cosmetologist upon receipt of the completed application, accompanied by a fee of twenty-five dollars ($25). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or the administrative regulations promulgated by the board. If an owner is not a licensed cosmetologist, he shall have a licensed cosmetologist manage the beauty salon at all times. A new license shall be purchased if the salon's owner, manager, or location changes.
 (b) The cosmetologist board shall issue a license to operate a nail salon to any licensed nail technician upon receipt of the completed application and payment of a fee of twenty-five dollars ($25). The board may refuse to issue a license if the applicant fails to comply with the provisions of this chapter or administrative regulations promulgated by the board pursuant to this chapter. An owner who is not a licensed nail technician shall have a licensed nail technician or cosmetologist as manager of the nail salon at all times. If the owner, manager, or location of a nail salon changes, a new license shall be purchased.
 (c) Any person who leases or rents space in a beauty salon or nail salon shall be considered an independent owner and shall meet the qualifications for the respective salon owner as set out in paragraphs (a) and (b) of this

subsection.

(5) The cosmetologist board shall issue an apprentice license to teach cosmetology to any person who:

(a) Has paid a fee of twenty-five dollars ($25);

(b) Has a high school education and one (1) year experience as a licensed cosmetologist; and

(c) Has submitted an application that has been signed by the owners of the school in which the applicant will study. The course of instruction shall be for a period of one thousand (1,000) hours and not less than six (6) months at one (1) school providing this instruction. The school owner shall certify to the board the completion of one thousand (1,000) hours.

(6) The cosmetologist board shall issue a license to teach cosmetology to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has held an apprentice instructor license for at least six (6) months;

(d) Has satisfactorily passed the examination for the teaching of cosmetology as prescribed by the board; and

(e) Has paid a fee of thirty-five dollars ($35).

(7) The cosmetologist board may issue a license to operate a school of cosmetology to any person who:

(a) Has complied with the administrative regulations promulgated by the board including, but not limited to, administrative regulations governing the necessary equipment, supplies, and facilities;

(b) Has furnished proof to the board that the school of cosmetology is needed, that he is otherwise qualified to operate a school of cosmetology, and that he intends to establish a bona fide school for the education and training of competent cosmetologists and that he will employ a sufficient number of licensed instructors of cosmetology to conduct the school;

(c) That the licensee shall have as manager at all times a person licensed as an instructor who will be charged with the responsibility of having a sufficient number of licensed instructors of cosmetology to conduct the school. The designated manager shall be approved by the board before a license may be issued;

(d) Complies with the administrative regulations promulgated by the board including, but not limited to, those regarding courses, curriculum, and hours of instruction;

(e) Otherwise complies with this chapter;

(f) Has paid a fee of one thousand dollars ($1,000);

(g) Has been a resident of Kentucky for five (5) years, if the applicant is an individual. If the applicant is a firm or corporation, it shall be a Kentucky corporation or licensed or qualified to do business in Kentucky and shall have been in existence for a period of at least five (5) years;

(h) Any student enrolling in the school shall pay a fee of five dollars ($5) to the board before enrollment in the school shall be allowed; and

(i) The transfer of any license to operate a school of cosmetology shall require the board's approval and shall become effective upon filing a new application with the board and paying a fee of one thousand dollars ($1,000).

(8) Licenses issued by the board shall be renewed upon receipt, beginning July 1 through July 31 of each year. Beginning July 1, 1997, any license shall be renewed by the board upon receipt, if the applicant has provided proof of continuing education as determined by the board by promulgation of an administrative regulation. Cosmetology instructors shall provide proof of eight (8) clock hours of continuing education, and cosmetologists and nail technicians shall provide proof of six (6) clock hours of continuing education. The application for renewal shall be completed in full and accompanied by the appropriate renewal fee required by subsection (9) of this section. Applications for renewal shall comply with the provisions of this chapter and the administrative regulations promulgated by the board. Any license application received or postmarked after July 31 shall be considered expired and the appropriate restoration fee required by subsection (11) of this section shall apply.

(9) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Apprentice cosmetologist -- $10;

(b) Cosmetologist -- $12;

(c) Nail technician -- $10;

(d) Beauty salon -- $15;

(e) Nail salon -- $15;

(f) Apprentice instructor of cosmetology -- $15;

(g) Instructor of cosmetology -- $25; and

(h) Cosmetology school -- $100.

(10) Applications for examinations required by this section shall be accompanied by an examination fee as follows:

(a) Apprentice cosmetologist -- $25;
(b) Cosmetologist -- $35;
(c) Nail technician --$35;
(d) Instructor of cosmetology -- $50;
(e) Cosmetologist out-of-state -- $75;
(f) Instructor out-of-state -- $150; and
(g) Where examination is not required by the board -- $50.

(11) The fee for the restoration of an expired license where the period of expiration does not exceed five (5) years from date of expiration, shall be as follows:

(a) Apprentice cosmetologist -- $50;
(b) Cosmetologist -- $50;
(c) Nail technician -- $50;
(d) Beauty salon -- $50;
(e) Nail salon -- $50;
(f) Cosmetology school -- $500;
(g) Instructor -- $75; and
(h) Apprentice instructor -- $50.

(12) The requirements for a new license for any person whose license has expired for a period exceeding five (5) years shall be as follows:

(a) Cosmetologists shall retake and pass the practical examination only;
(b) Apprentice cosmetologists shall complete one hundred fifty (150) additional hours training in a licensed school of cosmetology and pass the prescribed examination;
(c) Instructors of cosmetology shall retake and pass both the practical and science examination;
(d) Nail technicians shall retake and pass the practical examination, only; and
(e) The appropriate restoration fee as set forth in subsection (11) of this section shall be required.

(13) Guest artists or demonstrators appearing and demonstrating before persons other than licensed hairdressers, cosmetologists, and nail technicians shall pay a fee of thirty-five dollars ($35) for a permit that shall be in effect for ten (10) days. Guest artists performing before a nonprofit, recognized professional hairdressers, cosmetologists, and nail technicians group shall not be required to pay the fee.

(14) ***The board shall issue an inactive license to any person licensed under subsections (2), (3), and (6) of this section and in good standing with the board, upon application and submission of a twelve dollar ($12) fee. An inactive licensee shall not be required to complete the continuing education requirements contained in subsection (8) of this section. An inactive license may be restored to active status upon application to the board. In addition, the board may require the completion of continuing education not to exceed the amount required for license renewal for one (1) year. A person who possesses an inactive license shall not engage in the practice of cosmetology for consideration, but an inactive licensee shall have the same right to purchase supplies as accorded an active licensee.***

(15) The fee for certification shall be five dollars ($5).

(16)[~~(15)~~] The fee for a duplicate license shall be five dollars ($5).

SB 22, AN ACT relating to state veterans' cemeteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Veterans' Affairs shall establish and maintain state veterans' cemeteries in the Commonwealth for the purpose of providing for the interment of Kentucky veterans of the United States Armed Forces and for their next of kin, as determined by the department.

(2) The Kentucky state veterans' cemeteries shall be under the administrative authority and control of the Department of Veterans' Affairs. The Department of Veterans' Affairs may promulgate administrative regulations necessary to operate the cemeteries in compliance with applicable state and federal statutes and regulations.

(3) The Department of Veterans' Affairs is authorized to seek federal and private funding for the construction, renovation, and operation of Kentucky state veterans' cemeteries.

SB 37, AN ACT relating to the licensure of interpreters for the deaf and hard of hearing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context otherwise requires:

(1) "Board" means Kentucky Board of Interpreters for the Deaf and Hard of Hearing.

(2) "Committee" means Kentucky Board of Interpreters for the Deaf and Hard of Hearing Policy Committee.

(3) "Consumer" means a person who is deaf, hard of hearing, or who requires special communication techniques in order to communicate.

(4) "Interpreter" means a person who engages in the practice of interpreting.

(5) "Interpreting" means the translating or transliterating of English concepts to any necessary specialized vocabulary used by a consumer or the translating of a consumer's specialized vocabulary to English concepts. Necessary specialized vocabularies include, but are not limited to, American Sign Language, English-based sign language, cued speech, and oral interpreting.

(6) "Nationally recognized certification" means certification granted by a national organization that is based on a skills assessment of the applicant. These organizations include but are not limited to the Registry of Interpreters for the Deaf, the National Association of the Deaf, and the National Training, Evaluation and Certification Unit.

SECTION 2. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 2003, no person shall represent himself or herself as an interpreter or engage in the practice of interpreting as defined in Section 1 of this Act unless he or she is licensed in accordance with the provisions of Sections 1 to 12 of this Act.

(2) The provisions of Sections 1 to 12 of this Act shall not apply to:

  (a) Nonresident interpreters working in the Commonwealth less than twenty (20) days per year;

  (b) Interpreters working at religious activities;

  (c) Interpreters working as volunteers without compensation. However, all volunteers interpreting for state agencies must be eligible for licensure as described in Section 8 of this Act;

  (d) Interpreters working in an emergency. An emergency is a situation where the consumer decides that the delay necessary to obtain a licensed interpreter is likely to cause injury or loss to the consumer; or

  (e) The activities and services of an interpreter intern or a student in training who is:

    1. Enrolled in a program of study in interpreting at an accredited institution of higher learning;

    2. Interpreting under the supervision of a licensed interpreter as part of a supervised program of study; and

    3. Identified as an interpreter intern or student in training.

SECTION 3. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a board to be known as the "Kentucky Board of Interpreters for the Deaf and Hard of Hearing."

(2) The board shall consist of seven (7) members appointed by the Governor as follows:

  (a) Five (5) practicing interpreters who hold current nationally recognized certification and have at least five (5) years interpreting experience;

  (b) One (1) deaf interpreter with past or current nationally recognized certification; and

  (c) One (1) consumer with knowledge about interpreter issues.

(3) After the initial term of each appointment, all members shall be appointed for a term of four (4) years.

(4) Board members shall not be allowed to succeed themselves but a former member may be reappointed to the board if that member has not served in the preceding four (4) years.

(5) The members of the board shall receive no compensation for their services on the board, but they shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(6) The board shall annually elect a chairman, a vice chairman, and a secretary-treasurer from the members of the board.

(7) The board shall hold at least one (1) meeting annually and additional meetings as the board may deem necessary. The additional meetings may be held upon call of the chairman or upon written request of a quorum. Four (4) members of the board shall constitute a quorum to conduct business.

(8) Upon recommendation of the board, the Governor may remove any member of the board for neglect of duty or malfeasance in office.

SECTION 4. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of this chapter and shall have the responsibility of evaluating the qualifications of applicants for licensure and the issuance of licenses.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter.

(3) The board shall promulgate necessary and reasonable administrative regulations in accordance with KRS Chapter 13A and this chapter to effectively carry out and enforce the provisions of Sections 1 to 12 of this Act, including regulations to establish authorized fees. Fees shall not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 12 of this Act.

(4) The board may conduct hearings in accordance with KRS Chapter 13B and keep records and minutes necessary to carry out the functions of Sections 1 to 12 of this Act.

(5) The board may renew licenses and require continuing education as a condition for renewal.

(6) The board may suspend or revoke licenses, or impose supervisory or probationary conditions upon licensees, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof.

(7) The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of interpreting by unlicensed persons.

(8) The board may employ any persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(9) Beginning in 1999, on October 1 of each year, the board shall submit a report to the Legislative Research Commission indicating:

- *(a) The current number of licensed interpreters; and*
- *(b) The number of complaints received against interpreters and any disciplinary action taken within the previous calendar year.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) All fees and other moneys received by the board under the provisions of Sections 1 to 12 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.

(2) No part of this revolving fund shall revert to the general fund of this Commonwealth.

(3) This revolving fund shall pay for the reimbursement of board members for actual and necessary expenses incurred in the performance of their official duties, the compensation of all of the employees of the board, and those operational expenses incurred in fulfilling the board's duties as described in administrative regulation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a committee to be known as the "Kentucky Board of Interpreters for the Deaf and Hard of Hearing Policy Committee."

(2) The committee shall consist of eleven (11) members as follows:

- *(a) The president or a designee of:*
  - *1. Kentucky Association of the Deaf; and*
  - *2. Kentucky Registry of Interpreters for the Deaf;*
- *(b) A representative from:*
  - *1. Kentucky Commission on the Deaf and Hard of Hearing (KCDHH);*
  - *2. Eastern Kentucky University Interpreter Training Program;*
  - *3. Kentucky Department of Education;*
  - *4. Kentucky Department of Vocational Rehabilitation;*
  - *5. Kentucky School for the Deaf;*
  - *6. Cabinet for Families and Children; and*
  - *7. Cabinet for Health Services; and*

(c) Two members-at-large, who are consumers, appointed by the board.

(3) The members of the committee shall receive no compensation for their services on the committee. The member from the Kentucky Association of the Deaf, the member from the Kentucky Registry of Interpreters for the Deaf, and the members-at-large shall be reimbursed for actual and necessary expenses incurred in the performance of their committee duties.

SECTION 7. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The committee shall provide ongoing advice and input to the board regarding the criteria for licensure and the ratio between consumer demand and the existing supply of licensed interpreters or those eligible for licensure.

(2) The committee shall make recommendations to the board regarding the content of relevant administrative regulations.

(3) The committee shall provide ongoing review of professional development and support systems for interpreters including existing public and private education programs and training resources within the Commonwealth.

SECTION 8. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) To be eligible for licensure by the board as an interpreter, the applicant shall submit an application which includes:

(a) An application fee; and

(b) Current certification from a nationally recognized organization at the requisite level for sign language interpreters, oral interpreters, or cued speech transliterators as determined by the board and promulgated by administrative regulation.

(2) The board shall issue an interpreter license to an applicant who fulfills these requirements. The front of the license shall clearly list all certifications held by the licensee.

(3) The board may issue a temporary license as an interpreter to an applicant who is certified at a level below that required for licensure in subsection (1) of this section. A temporary license shall be available for a person who is training under the supervision of a licensed interpreter under circumstances defined by the board in administrative regulation. A temporary license is valid for only a certain period until the licensee achieves the minimum level of certification required for licensure under subsection (1) of this section. A temporary license is not renewable although extensions may be granted under circumstances defined by administrative regulation.

(a) For graduates of a baccalaureate interpreter training program, a temporary license shall be valid for up to one (1) year.

(b) For graduates of an associate of arts interpreter training program, a temporary license shall be valid for up to two (2) years.

(c) For nondegree applicants, a temporary license shall be valid for up to two (2) years.

(4) Upon payment of the application fee, the board shall grant licensure to an applicant holding a valid license, certificate, or equivalent issued by another state if it is based upon standards equivalent to or exceeding the standards required by Sections 1 to 12 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) Each person licensed as an interpreter shall annually, on or before July 1, submit to the board current proof of nationally recognized certification and pay a fee for the renewal of the interpreter license. The amount of the fee shall be promulgated by administrative regulation of the board. All licenses not renewed by July 1 of each year shall expire.

(2) A sixty (60) day grace period shall be allowed after July 1, during which time individuals may continue to practice and may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board.

(3) All licenses not renewed by August 31 shall terminate based on the failure of the individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(4) After the sixty (60) day grace period, but before five (5) years from the date of termination, individuals with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board.

(5) A suspended license is subject to expiration and termination and may be renewed as provided in Sections 1 to 12 of this Act. Renewal shall not entitle the licensee to engage in the practice of interpreting until the suspension has ended or is otherwise removed by the board and the right to practice is restored by the board.

(6) A revoked license is subject to expiration and termination but shall not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (4) of this section and the renewal fee as set forth in subsection (1) of this section.

(7) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulation.

SECTION 10. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board shall by administrative regulation classify types of offenses and the recommended administrative action. The type of action to be taken shall be based on the nature, severity, and frequency of the offense. Administrative action authorized in this section shall be in addition to any criminal penalties provided in Sections 1 to 12 of this Act or under other provisions of law.

(2) The board may investigate allegations of wrongdoing upon complaint or upon its own volition. The board shall establish procedures for receiving and investigating complaints by administrative regulation.

(3) If the board's investigation reveals evidence supporting the complaint, the board shall set the matter for hearing in accordance with the provisions of KRS Chapter 13B before suspending, revoking, imposing probationary or supervisory conditions or an administrative fine, issuing a written reprimand, or any combination of actions regarding any license under the provisions of this chapter.

(4) If, after an investigation that includes opportunity for the licensee to respond, the board determines that a violation took place but was not of a serious nature, it may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing under the provisions of KRS Chapter 13B.

(5) After denying an application under the provisions of Sections 1 to 12 of this Act, the board may grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.

SECTION 11. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license or suspend, revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee has:

  (a) Been convicted of a crime as described in KRS 335B.010(4) or an offense that otherwise directly relates to the occupation of interpreter. A plea of "no contest" may be treated as a conviction for purposes of disciplinary action;

  (b) Knowingly misrepresented or concealed a material fact in obtaining a license or in reinstatement thereof;

  (c) Committed any fraudulent act or practice;

  (d) Been incompetent or negligent in the practice of interpreting;

  (e) Violated any state statute or administrative regulation governing the practice of interpreting;

  (f) Violated the code of ethics of the national organization issuing the licensee's certification as incorporated in administrative regulation; or

  (g) Violated any federal or state law considered by the board to be applicable to the practice of interpreting.

(2) When the board issues a written reprimand to the licensee, a copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to submit a response within thirty (30) days of its receipt and to have that response filed in the permanent file.

(3) At any time during the investigative or hearing processes, the board may accept an assurance of voluntary compliance from the licensee which effectively deals with the complaint.

(4) The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary action.

(5) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of interpreting.

(6) Any party aggrieved by a disciplinary action of the board may bring an action in Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

SECTION 12. A NEW SECTION OF KRS CHAPTER 309 IS CREATED TO READ AS FOLLOWS:

Any person who shall violate or aid in the violation of any of the provisions of Section 2 of this Act shall be guilty of a Class B misdemeanor.

Section 13. The original members of the board created in Section 3 of this Act shall be appointed before October 1.

1998, as follows: One (1) member to a one (1) year term, two (2) members to a two (2) year term, two (2) members to a three (3) year term, and two (2) members to a four (4) year term. All members thereafter shall be appointed for a term of four (4) years. Any vacancy in the membership of the board shall be filed for the unexpired term by appointment by the Governor.

SB 120, AN ACT relating to simulcasting in a geographic area containing more than one race track.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to the commission for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300. The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.

(2) On or before November 1 of each year, the commission shall meet and award intertrack wagering dates to all tracks for the entire succeeding calendar year. In ***a geographic area***~~[counties]~~ containing more than one (1) track ***within a fifty (50) mile radius of another track***, intertrack wagering ***shall be limited to simulcasting and wagering on racing of the same breed of horse as the receiving track was licensed to race on or before the effective date of this Act***~~[dates shall be awarded as follows:~~

(a) ~~A receiving track of the same breed as the host track's breed shall have the right to receive, on an exclusive basis, sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990; and~~

(b) ~~A receiving track of a different breed than the breed of the host track shall receive on an exclusive basis the remaining forty percent (40%) of the intertrack wagering dates not awarded by the commission under subsection (2)(a) of this section, and exclusive of days contained in subsection (4) of this section, if the receiving track was licensed to conduct racing of a different breed on or before January 1, 1990. Any unused intertrack wagering days or any intertrack wagering days not requested by and awarded to a receiving track of a different breed than the breed of the host track, shall be awarded to the receiving track of the same breed as the breed of the host track]~~.

(3) ~~[Except in extraordinary circumstances, such as the need to accommodate a receiving track's sales activities or special events, intertrack wagering dates shall be awarded in weekly increments.]~~The commission shall approve no more than nine (9) tracks for participation in ***horse racing,*** intertrack wagering***, and simulcasting***. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in KRS 230.380.

(4) A track may by administrative regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300, provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting to both receiving tracks and simulcast facilities, at its discretion;

(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to each other or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to each other; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

(5) A track may receive simulcasts and conduct interstate wagering thereon subject to the following limitations which shall be in addition to the limitations set forth in KRS 230.3771:

(a) A track licensed to conduct thoroughbred racing may receive simulcasts and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals.

(b) A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals.

(c) A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.

(d) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission to be of sufficient national or international significance or interest to warrant interstate wagering and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race.

(e) A track may also receive simulcasts and conduct interstate wagering on thoroughbred horse races other than those described in paragraphs (a) and (d) of this section if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., and the Kentucky Horsemen's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association, or its successor, for harness racing.

(f) The consent required by paragraph (e) of this subsection or by subsections (1)(g) and (2)(g) of KRS 230.3771 shall not be withheld:

1. For any reason not specifically related to financial harm to live horse racing; or

2. As a condition to the granting of any contractual or other concession not specifically related to the effects of interstate simulcasting on live horse racing in this Commonwealth, taken as a whole.

(g) A host track located in this state may receive simulcasting of not more than two (2) full cards of racing from another state, if both tracks race horses of the same breed and if:

1. The race date was previously granted by the Kentucky Racing Commission to conduct live racing at the track located in this state;

2. Live racing was canceled due to weather conditions; and

3. The consent required by subsection (5)(d) of this section is obtained.

(h) The in-state track receiving the simulcast specified in paragraph (g) of this subsection shall offer that simulcast to all participating tracks and simulcast facilities in the intertrack wagering system.

(i) All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) The commission may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack or interstate wagering and regulating the conditions under which wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS Chapter 13A, KRS 138.510, and this chapter.

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to March 30, 1992.

Section 2. KRS 230.3771 is amended to read as follows:

(1) A thoroughbred track licensed to conduct thoroughbred racing may receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon, subject to the following limitations:

(a) A thoroughbred receiving track may receive interstate simulcasts of thoroughbred races and conduct interstate wagering thereon at any time of day and during any live thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the thoroughbred receiving track conducting interstate wagering remits to the thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all thoroughbred receiving tracks, all harness tracks ***not subject to the provisions of subsection (2) of Section 1 of this Act***, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of thoroughbred races unless all thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the thoroughbred host track's commission. If more than one (1) thoroughbred track conducts live racing at different times on the same day, the thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten

(10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky Thoroughbred Owners and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs:
2. Twenty-five percent (25%) to the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all thoroughbred receiving tracks ***not subject to the provisions of subsection (2) of Section 1 of this Act***, all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding subsection (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;
2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;
3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and
4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection (2). However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

(4) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a ***geographic area***~~[county]~~ that contains more than one (1) track ***within a fifty (50) mile radius of any other track*** may only receive interstate simulcasts ***on racing of the same breed of horse as the track was licensed to race on or before the effective date of this Act***~~[in accordance with the provisions of subsections (1) and (2) of this section, subject to the following additional limitations:~~

~~(a) All harness tracks in the county shall select interstate simulcasting dates before any thoroughbred track in the county in even-numbered years;~~

~~(b) All thoroughbred tracks in the county shall select interstate simulcasting dates before any harness track in the county in odd-numbered years;~~

~~(c) In selecting interstate simulcasting dates, the track with the right to select interstate simulcasting dates shall first select dates that correspond with the intertrack wagering dates awarded to that track by the commission for that year, including any intervening days. No track shall select dates that correspond with the sales dates of another track in the county. The selecting track shall choose dates in weekly increments, if possible;~~

~~(d) Except as provided in subsection (1)(i) of this section, no harness track shall receive any interstate simulcast of any thoroughbred race during a live thoroughbred race meet conducted in the county;~~

~~(e) Except as provided in subsection (2)(i) of this section, no thoroughbred track shall receive any interstate simulcast of any harness race during a live harness race meet conducted in the county;~~

~~(f) From July 15, 1994, through December 31, 1994, all harness tracks in the county shall be entitled to thirty percent (30%) of the available interstate simulcast dates and all thoroughbred tracks in the county shall be entitled to seventy percent (70%) of the available interstate simulcast dates;~~

~~(g) Beginning January 1, 1995, interstate simulcast wagering dates shall be determined by the following method:~~

~~1. Determine the total gross handle for all harness tracks in the county during the immediate preceding calendar year;~~

~~2. Determine the total gross handle for all thoroughbred tracks in the county during the immediate preceding calendar year;~~

~~3. Determine the total gross handle for all tracks in the county during the immediate preceding calendar year;~~

~~4. Interstate simulcast wagering dates shall be selected on a percentage basis, determined by dividing the gross handle for each track by the gross handle for all tracks;~~

~~5. For purposes of this subsection, total gross handle includes live handle and intertrack wagering handle;~~

~~(h) During calendar year 1995, all harness tracks in the county shall be entitled to not less than thirty percent (30%) of the available interstate simulcast dates and all thoroughbred tracks in the county shall be entitled to not less than seventy percent (70%) of the available interstate simulcast dates;~~

~~(i) As used in subsections (4)(f) and (4)(h) of this section, "available interstate simulcast dates" means all dates, except those dates from the first awarded day of a live meet through the last awarded day of the same live meet for all live racing in the county;~~

~~(j) Interstate simulcasting and wagering conducted in accordance with KRS 230.377(5) shall not be subject to the limitations of this subsection~~].

The Committee on Counties and Special Districts reported **HB 236** and **HB 432** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 236, AN ACT relating to notice of action.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 411.110 is amended to read as follows:

(1) "Local government" means any city incorporated under the laws of this Commonwealth, the offices and agencies thereof, and any county government, urban county government, fiscal court, or any special district or special taxing district created or controlled by local government.

(2) No action shall be maintained against any ***local government***[~~city~~] in this state because of any injury growing out of any defect in the condition of any bridge, street, sidewalk, alley or other public thoroughfare, unless notice has been given to the ***local government***[~~mayor, city clerk or clerk of the board of aldermen~~] in the manner provided for the service of notice in actions in the Rules of Civil Procedure. This notice shall be filed within ninety (90) days of the occurrence for which damage is claimed, stating the time of and place where the injury was received and the character and circumstances of the injury, and that the person injured will claim damages therefor from the ***local government***[~~city~~].

HB 432, AN ACT relating to powers of fiscal courts and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the General Assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the Constitution and statutes of this state now or hereafter enacted.

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky Constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 to 244;

(o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and cooperative extension service programs;

(r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;

(s) Licensing or franchising of cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;

(y) Preservation of historic structures***;***

(z) Regulation of establishments or commercial enterprises offering adult entertainment and adult entertainment activities.

(4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation:

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation;

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard;

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute; or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor of each city in the county.

(8) (a) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. These powers, other than the power to tax, may be exercised cooperatively by two (2) or more counties, or by a county and a city, or by a county and a special district, or by a county and the state through, but not limited to, joint contracts, joint ownership of property or the exchange of services, including personnel and equipment. When counties cooperate in the provision of public services, contracts shall be drawn to insure that benefits among the participating governments are relative to costs among them. If the personnel or equipment of one (1) government is provided for a second government, the second government shall fully compensate the first through the reciprocal provision of services or through monetary compensation.

(b) A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.

(9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

Section 2. Whereas recent judicial decisions have misinterpreted the General Assembly's grant of home rule authority, which already permits counties to regulate establishments or commercial enterprises offering adult entertainment and adult entertainment activities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Calendar

HB 187, HB 254, HB 299, HB 172, HB 282, HB 354, HB 362, HB 141, HB 309, HB 336, HB 340, HB 343, HB 356, HB 357, HB 358, HB 364, HB 365, HB 383, HB 392, HB 422, HCR 9, HCR 10, HCR 32, HCR 45, HCR 46 and **SB 1** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed. At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report on Enrolled Bills

HB 170 delivered to the Senate and signed by the President. Delivered to the Governor on February 4, 1998 at 2:15 p.m.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 159, HB 160, HB 340, HB 343, HB 354, HB 356, HB 357, HB 358, HB 362, HB 364, HB 365, HB 383, HCR 9, HCR 10, HCR 32, HCR 45,** and **HCR 46** have been posted for passage in the Orders of the Day for February 5, 1998.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills

HB 503, by Representative Stumbo: AN ACT relating to reorganization.

HB 504, by Representative Worthington: AN ACT relating to air transportation funding and declaring an emergency.

HB 505, by Representative Barrows: AN ACT relating to equine drug testing.

HB 506, by Representatives Lovell and Long: AN ACT relating to pharmacy services for Medicaid.

HB 507, by Representative Kerr: AN ACT relating to mortgage loans.

HB 508, by Representatives Brown, Siler, Stumbo, D. Butler, G. Graham, Gee, Bratcher, Vincent, Stein, Yonts, Marzian, Murgatroyd, Adkins, Richards, Bruce, J. Arnold, Polston, Stewart, Curd, Jordan, Horlander, L. Clark, Hoffman, Jenkins, Collins, Anderson and Callahan: AN ACT relating to retirement.

Floor Amendments (Continued)

Floor Amendment No. 4 to the Committee Substitute to **HB 234**, by Representative Vincent:

On page 65, line 14, by adding after "***plan.***" the following: "***The monthly contribution, as determined by the board, shall be the state rate established for the Kentucky Kare Standard High Plan, or its equivalent.***"

Motions, Petitions and Communications (Continued)

Representative Burch moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Burch moved the adoption of the following **Legislative Citation No. 50**. Agreed.

John Clayton, Commissioner Department of Social Insurance on the occasion of his imminent retirement, after having lent his great skill and talented leadership ability to the service of the Commonwealth for twenty-seven years. The entire membership is indeed pleased to join with Representative Tom Burch in extending its deepest gratitude and appreciation to this exceptional career-employee who has demonstrated exemplary dedication to the difficult and challenging tasks of administering services to the citizens of our Commonwealth whose basic needs are the greatest. Now, let it be known that the Kentucky House of Representatives doth hereby recognize this faithful and conscientious citizen for his immeasurable contributions and further doth extend its very best wishes for his continued success as he assumes his new position as deputy director of the Arizona Department of Economic Security. **Legislative Citation No. 50** was adopted without objection.

Representative Burch moved the adoption of the following **HR 64**:

HR 64, A RESOLUTION adjourning the House of Representatives in honor of John Clayton upon the occasion of his imminent retirement.

WHEREAS, John Clayton graduated from Morehead State University School of Social Work in 1970; he held previous positions with the Chrysler Corporation and Morehead State University; and he has diligently served the Commonwealth of Kentucky as a career employee for twenty-seven years; and

WHEREAS, John Clayton is resigning as Commissioner for the Department of Social Insurance, a position that enabled him to use his leadership abilities in administering services for Aid to Families with Dependent Children, Food Stamps, Energy Assistance, Child Support, Disability Determination, and Medicaid Eligibility; and most recently, he played an integral role in Kentucky's Welfare-Reform efforts; and

WHEREAS, when we reflect upon the contributions John Clayton has tirelessly given to the citizens of this Commonwealth, we are reminded that ethics and integrity have played a large part toward his many achievements, and his accomplishments should serve as an example for those who succeed him;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body hails and commends John Clayton for his immeasurable contributions to the Commonwealth of Kentucky, and wishes to him, upon his imminent retirement, continued success in his new position as deputy director of the Arizona Department of Economic Security.

Section 2. When the House of Representatives adjourns this day, it does so in honor of John Clayton.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. John Clayton, 3033 Old Field Way, Lexington, Kentucky 40513.

There being no objection **HR 64** was adopted.

Representative G. Graham moved the adoption of the following **Legislative Citation No. 59**. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors Stephanie McBrayer for her service in the U. S. Peace Corps. This outstanding young woman, a graduate of Franklin County High School and Eastern Kentucky University, has served as an English teacher in Preili, Latvia, since 1996. The entire membership of this honorable body is delighted to join with Representative Gippy Graham in commending Stephanie McBrayer for generously devoting her skills and abilities to the betterment of others and in extending the hope that her diligent and far-reaching labor will be blessed with ample reward. **Legislative Citation No. 59** was adopted without objection.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 106**, by Representative Rasche:

On page 1, line 17, after the subsection number "(3)", delete the remainder of the line in its entirety and insert in lieu thereof the following:

"*A person who does not want to wear protective headgear while operating a motorcycle and has agreed to make an anatomical gift of his or her entire body shall prepare an advance directive as required by this section and file the directive with the circuit clerk when initially being issued an instruction permit or operator's license, and when renewing an instruction permit or operator's license. The person shall pay a fifteen dollar ($15) fee to the circuit clerk each time the person renews an instruction permit or operators license for the circuit clerk to issue the person two (2) decals. The person shall be required to affix one (1) decal to an instruction permit or operator's license and one (1) decal to a registration plate to identify the person as having made an anatomical gift under KRS 186.412, KRS 311.195, and the provisions of this section and therefore exempt from the requirement to wear protective headgear.*

(4) A person shall not be required to wear protective headgear when operating a motorcycle on any public highway if, when being initially issued an instruction permit or operator's license, or renewing an instruction permit or operator's license, the person files an advance directive with the circuit clerk establishing the person's wish and intention to make an anatomical gift of his or her entire body under KRS 186.412, KRS 311.195, and this section. An advance directive shall be in writing on a form as required under subsection (5) of this section and shall:

(a) Be dated and signed by the person making the anatomical gift; and

(b) Be witnessed by two (2) or more adults in the presence of the person making the anatomical gift and in the presence of the circuit clerk or in the presence of a notary public or other person authorized to administer oaths. The following persons shall not be eligible to witness an advance directive made under this section:

1. A blood relative of the person making the anatomical gift;

2. A beneficiary under descent and distribution statutes of the Commonwealth of the person making the anatomical gift; or

3. Any person directly financially responsible for the health care of the person making the anatomical gift.

(5) An advance directive to make an anatomical gift under this section shall be honored only if it is made on a standard form approved by the Kentucky Board of Medical Licensure in conjunction with the Transportation Cabinet. The Transportation Cabinet shall provide advance directive forms to each circuit clerk to carry out the provisions of subsection (4) of this section.

(6) An advance directive to make an anatomical gift under this section shall be honored by the person making the anatomical gift's family, regular family physician, attending physician, and any health care facility to which the person making the anatomical gift is taken for medical treatment as a result of an accident from operating a motorcycle without use of protective headgear.

(7) An emergency medical responder as defined in KRS Chapter 211 and a paramedic as defined in KRS Chapter 311 shall honor a person's wish to make an anatomical gift by assuming the person has complied with the provisions of this section for an advance directive if the person has signed the appropriate block on the back of his operator's license under KRS 186.412.

(8) An advance directive filed with the circuit clerk under this section may be revoked at any time the person making the anatomical gift returns to the circuit clerk and complies with the provisions of subsection (9) of this section.

(9) A person may revoke an advance directive filed under this section at any time if the person signs a statement in the presence of the circuit clerk indicating the person is revoking his anatomical gift, returns the two (2) decals issued under subsection (3) of this section, and agrees in writing to wear protective headgear at all times when operating a

motorcycle on a public highway.

(10) The circuit clerk shall retain five dollars ($5) of the fifteen dollar ($15) fee required to issue decals under paragraph subsection (3) of this section. The clerk shall remit the remaining ten dollars ($10) to the Transportation Cabinet in Frankfort. The Transportation Cabinet shall use the ten dollars ($10) to manufacture and supply each circuit clerk the advance directive forms and decals required under this section."; and

On page 1, lines 18 through 25, by deleting lines 18 through 25 in their entirety; and

On page 2, lines 1 and 2, by deleting lines 1 and 2 in their entirety; and

On page 2, line 3, by renumbering subsection "***(4)***" as subsection "***(11)***"; and

On page 2, line 5, by renumbering subsection "***(5)***" as subsection "***(12)***"; and

On page 2, line 11, by renumbering subsection "***(6)***" as subsection "***(13)***"; and

On page 2, line 16, by renumbering subsection "***(7)***" as subsection "***(14)***"; and

On page 2, after line 22, by inserting the following new sections:

"Section 2. KRS 186.412 is amended to read as follows:

(1) A person may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed a valid instruction permit for at least one hundred eighty (180) days. The person shall apply for an operator's license in the office of the circuit clerk of the county where he lives. The application form shall require the applicant's full legal name and signature, date of birth, Social Security number, sex, present resident address, other information necessary to permit the application to also serve as an application for voter registration, and brief physical description of the applicant. The application shall state:

(a) If the applicant has previously been licensed as an operator and by what state;

(b) If a license is canceled, suspended, revoked, or refused; and

(c) Other information the cabinet may require by administrative regulation promulgated pursuant to KRS Chapter 13A.

(2) The Transportation Cabinet shall issue a plastic laminated operator's license bearing a color photograph of the applicant. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The plastic laminated operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. The license shall also designate by color coding and use the phrase "under (21)" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(3) After January 1, 1996, a person may, before the renewal date for his operator's license, request a circuit clerk to issue a new plastic laminated operator's license that does not contain the person's Social Security number. The person shall be charged the fee established by KRS 186.531 for renewing an operator's license if the person requests a license pursuant to this subsection.

(4) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(5) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. The temporary license shall be valid in lieu of the permanent license during the certification period and shall be destroyed upon receipt of the permanent operator's license.

(6) The circuit clerk shall issue a color photo nondriver's identification card to any person who resides in the county who applies in person in the office of the circuit clerk. A nondriver's identification card shall be subject to the provisions of subsection (2) of this section. An application for a nondriver's identification card shall be accompanied by a signed Social Security card and a birth certificate, or other proof of the applicant's date of birth that is satisfactory to the clerk. The application shall require the applicant to provide his most current resident address that may include, but is not limited to, a mailing address, post office box, or an address provided on a voter registration card. If an applicant for a nondriver's identification card is under the age of twenty-one (21), the applicant's most current resident address shall be required unless a current resident address is not available, in which case a mailing address, post office box, or an address provided on a voter registration card may be used. Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the

legal possessor of the address provided on the application form, the applicant shall swear that he has permission from the legal possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(7) Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature." If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.

(8) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; ~~[and]~~

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195***; and***

(d) A statement that the owner of a motorcycle instruction permit or motorcycle operator's license has filed an advance directive prepared under the provisions of Section 1 of this Act.

(9) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(10) An operator's license pursuant to this section shall be designated a Class D license.

(11) A person shall not have more than one (1) license.

Section 3. KRS 311.195 is amended to read as follows:

(1) A gift of all or part of the body under subsection (1) of KRS 311.175 may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(2) A gift of all or part of the body under subsection (1) of KRS 311.175 may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor in the presence of two (2) witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two (2) witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(3) A gift of all or part of the body under KRS 186.412 may also be made by a statement provided for on all Kentucky operators' licenses. The gift becomes effective upon the death of the owner. The statement must be signed by the owner of the motor vehicle ~~[or motorcycle]~~ license in the presence of two (2) witnesses, who must sign the statement in the presence of the donor. Delivery of the license during the donor's lifetime is not necessary to make the gift valid. The gift shall become invalidated upon expiration, cancellation, revocation, or suspension of the license, and the gift must be renewed upon renewal of each license. ***A person making an anatomical gift under KRS 186.412 shall be required to file an advance directive with the circuit clerk under the provisions of Section 1 of this Act and the gift shall be subject to the provisions of Section 1 of this Act.***

(4) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(5) Notwithstanding subsection (2) of KRS 311.225, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(6) Any gift by a person designated in subsection (2) of KRS 311.175 shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.".

Floor Amendment No. 4 to the Committee Substitute to **HB 226**, by Representative Riggs:

On page 2, line 19 after "shall" by inserting "***post with the commissioner an irrevocable letter of credit to insure compliance with the laws relating to KRS Chapter 368. The letter of credit shall be posted in the following amounts:***

(a) If an applicant has only one (1) business location the amount shall be fifty thousand dollars ($50,000);

(b) If an applicant has two (2) to five (5) business locations the amount shall be one hundred thousand dollars ($100,000);

(c) If an applicant has six (6) to ten (10) business locations the amount shall be one hundred and fifty thousand dollars ($150,000); and

(d) If an applicant has more than ten (10) business locations the amount shall be two hundred thousand dollars ($200,000)" and by placing "["before the word "have" and by striking through "have a net worth of at least one hundred thousand dollars";

On page 2 line 20 by striking through "($100,000)," and by deleting "***for each location,***" and by striking through "computed according to generally accepted"; and

On page 2, line 21 by placing "]" after "principles" and by striking through "accounting principles".

Motions, Petitions and Communications (Continued)

Representative Brandstetter moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative Brandstetter moved that he be recorded as voting "yea" on **HB 4, HB 15, HB 37, HB 284**, and **HR 62**. Agreed. Representative Brandstetter moved that he be recorded as voting "nay" on **HB 197** and **HB 304**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed. Representative P. Clark moved that his vote be changed from "nay" to "yea" on **HB 37**. Agreed. Representative P. Clark moved that his vote be changed from "yea" to "nay" on **HB 304**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended: **HB 13**, Representatives Stine, Kerr, Walton; **HB 13, HB 412**, Representative Ford; **HB 138**, Representative P. Clark; **HB 163**, Representative Marcotte; **HB 225**, Representative G. Graham; **HB 329, HB 380**, Representative Hoover; **HB 380**, Representative Stein; **HB 386**, Representative Walton; **HB 397**, Representatives Brandstetter; Murgatroyd; **HB 434**, Representative Jenkins; **HB 453**, Representative Maricle.

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Resources, upon adjournment, Room 129; Budget Review Subcommittee on General Government, February 5, 1998, 10:00 a.m., Room 125; Banking and Insurance, February 5, 1998, 9:00 a.m.; Budget Review Subcommittee on Economic Development, Noon, February 5, 1998; Agriculture and Small Business, Noon, February 5, 1998.

The following meetings were canceled:

Labor and Industry, February 5, 1998; Northern Kentucky Chamber of Commerce Reception, February 5, 1998; Transportation, February 5, 1998.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 5, 1998.

On the roll call the vote was **Yeas 70**--J. Adams, R. Adams, Adkins, Alexander, Allen, A. Arnold, J. Arnold, Ballard, Barrows, Baugh, Brandstetter, Brown, Bruce, Burch, D. Butler, Callahan, Cave, L. Clark, P. Clark, Coleman, Colter, Cox, Crimm, Curd, Damron, Gee, Geveden, D. Graham, G. Graham, Gray, Haydon, Hoffman, Horlander, Jenkins, Johns, Kerr, Lee, Lindsay, Long, Lovell, Marcotte, Marzian, Mason, McKee, Miller, Murgatroyd, Nesler, Newsome, Polston, Rader, Rasche, Reinhardt, Richards, Riner, Scott, Siler, Simpson, Sims, Stacy, Stein, Stine, Stumbo, Thomas, Treesh, Vincent, Walton, Weaver, Wilkey, Worthington, Yonts. **Nays 9**--Crall, Ford, Hatcher, Hoover, Maricle, Nunn, Riggs, Stewart, Zimmerman.

The motion to adjourn was adopted.